

Progress in Environmental Law Drafting in South Eastern Europe



REGIONAL ENVIRONMENTAL CENTER



This report has been produced with the financial assistance of the European Union

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Written by
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Szentendre, Hungary
December, 2005



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The REC fulfils this mission by promoting cooperation among non-governmental organisations, governments, businesses and other environmental stakeholders, and by supporting the free exchange of information and public participation in environmental decision making.

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ISBN: 963 9638 01 3

Published by:
The Regional Environmental Center for Central and Eastern Europe
Ady Endre ut 9-11, 2000 Szentendre, Hungary
Tel: (36-26) 504-000, Fax: (36-26) 311-294
Website: <www.rec.org>

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This publication is a result of the project Assistance in Environmental Law Drafting in South Eastern Europe, part of the Regional Environmental Reconstruction Programme for South Eastern Europe (REReP). The project was funded by the European Union within the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) programme and implemented by the Regional Environmental Center for Central and Eastern Europe.

The present report has been produced with the financial assistance of the European Union.
The views expressed herein can in no way be taken to reflect the official opinion of the European Union.

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TABLE OF ABBREVIATIONS

BiH	Bosnia and Herzegovina
CARDS	Community Assistance for Reconstruction, Development and Stabilisation
CEE	Central and Eastern Europe
EAR	European Agency for Reconstruction
EC	European Commission
EEA	European Environment Agency
EIA	Environmental impact assessment
ELDNSO	Environmental Law Drafting Network of Senior Officials in South Eastern Europe
EMAS	Eco-Management and Audit Scheme
EU	European Union
FBiH	Federation of Bosnia and Herzegovina
FRY	Federal Republic of Yugoslavia
GEF	Global Environment Facility
GMOs	Genetically modified organisms
IMPEL	European Union Network for the Implementation and Enforcement of Environmental Law
INECE	International Network for Environmental Compliance and Enforcement
IPPC	Integrated pollution prevention and control
LEAP	Local environmental action plan
MEAs	Multilateral environmental agreements
NEAP	National environmental action plan
NGOs	Non-governmental organisations
OECD	Organisation for European Co-operation and Development
PANL	Programme for Approximation of the National Legislation
REC	Regional Environmental Center for Central and Eastern Europe
REReP	Regional Environmental Reconstruction Programme for South Eastern Europe
RS	Republika Srpska
SAP	Stabilisation and Association Process
SAA	Stabilisation and Association Agreement
SEA	Strategic environmental assessment
SEE	South Eastern Europe
SFRY	Socialist Federal Republic of Yugoslavia
UNECE	United Nations Economic Commission for Europe
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNMIK	United Nations Mission in Kosovo

Foreword

In May 1968, the Council of Europe adopted the European Water Charter, one of the first international texts related to environmental protection. It declared that water knows no boundaries and that international cooperation is thus necessary to manage water resources. The expansion of human knowledge and understanding of the environment in the decades since the publication of the Water Charter have demonstrated the relevance of its message to all environmental components. As governments have acted in response, regional and global cooperation have grown considerably, notwithstanding the borders which separate states.

The Regional Environmental Center has been a pioneer in building such cooperation, especially in helping to develop laws and policies for environmental protection and sustainable development in Eastern and South Eastern Europe. The present work is the result of one aspect of this essential activity, which involves assessing the deficiencies of national laws and the discrepancies between such laws and the EU environmental acquis in order to adopt more effective and consistent legislation. Although none of the states in this region belongs to the European Union, there is a clear intent to achieve regional harmonisation, as well as to assure compliance with multilateral environmental treaties.

Comparative law is a major instrument for improving environmental protection. Officials and experts throughout the world agree on the importance of knowing the experiences of many countries and learning from their successes and errors. This is particularly relevant in a relatively new field such as environmental protection, where knowledge of the environment, the threats to it and the methods to protect it continue to

evolve. A glance at environmental laws shows that such widely used techniques as environmental impact assessment, licensing and permitting, and public information and participation, each began within a single jurisdiction and became widespread as their value in contributing to the goal of environmental protection was recognised.

The present work provides an excellent analysis which furthers the development of comparative law within the region. It will undoubtedly assist in improving legal regulations inside the countries of South Eastern Europe. It also constitutes a significant step forward in preparing for their future adhesion to the European Union, an institution which fully recognises the importance of a high level of environment protection, in particular through the cooperation between its members, as well as in the creation and use of legal instruments and institutions.

One of the highest recommendations which can be given to this study is that it is not only based on rigorous scholarship, but it has a practical aim and result. It helps identify specific problems and potential solutions. The concluding chapter and the recommendations it includes should be read with much care by the decision makers of the relevant countries, who have the duty of transmitting what they inherited to the future generations within their states.

Professor Alexandre Kiss

President of the European Council
on Environmental Law

Professor Dinah Shelton

George Washington University Law School

Preface

The lure of future membership in the European Union has helped to stabilise the Western Balkans. Governments in the region have given political expression to the legitimate aspirations of the people of South Eastern Europe to be a part of a united Europe. The peaceful unification of the continent includes the prospect of prosperity, democracy, human rights and the rule of law, features that have been in short supply in the region's recent history.

But beyond aspirations and words, it is the actions of the countries that will determine the pace at which they will be included in a stable Europe. And in case some would think that standards of membership might be relaxed for security considerations, it is worth reaffirming that a clear and practical approach towards eventual membership is reflected in the European Commission's policy of "consolidation, conditionality and communication."

The European Union differs from other regional economic integration organisations in the priority it gives to sustainable development and environmental protection. The adoption of environmental legislation that is harmonised with European legal norms and standards must be considered a major stepping stone on the path towards the EU. Environmental issues have also been recognised as a motivating factor and building block for transboundary cooperation and the reduction of conflict. These were basic considerations in the development of the Regional Environmental Reconstruction Programme for South Eastern Europe (REReP) and have been confirmed more recently for a broad geographical region in the Environment and Security initiative.

Against this background, it is important to reflect on the substantial progress that has been made by Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, and Serbia and Montenegro (including Kosovo — see note below). When the project that gave rise to this publication began in 2001, the Stabilisation and Association Process was quite young, and the preparations were still under way for the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) programme. In 2003 the project team produced a baseline study entitled *Assessing Environmental Law Drafting Needs in South Eastern Europe* that detailed the achievements, obstacles and needs at that time. Now, two years later, it is time to focus on those tasks that still remain.

Commissioner for Enlargement Olli Rehn recently said that the European Union is "a community of law and a community of values" that offers to the countries of the Western Balkans benefits "in terms of better protection of citizens' rights, better economic prospects and living standards, and better neighbourly relations." The benefits for citizens promised by the EU cannot be realised without successful reform of environmental legislation. This volume is intended to contribute to the efficient realisation of that goal.

Stephen Stec

Regional Environmental Center for Central and Eastern Europe (REC) and Leiden University

Note: Reference to Kosovo in this document is made in the spirit of United Nations Security Council Resolution 1244 and should be understood as a territory under UN interim administration.

Acknowledgements

Csaba Kiss reviewed the report and provided substantial input.

The Environmental Law Programme of the REC supervised the production of the report. Members of the ELP during this period included Stephen Stec, Tsvetelina Borissova Filipova, Dana Carmen Romanescu, Plamen Peev, Veronika Farkas, Vito Antonio Buonsante, and Oleksandra Ratushnyak.

We extend our gratitude to the project focal points in SEE countries that contributed to this publication, namely Bajram Mejdiaj, Hamid Suljevic, Azra Korac-Mehmedovic, Ozren Laganin, Natasa Kacic Bartulovic, Jadranka Ivanova, Visar Morina, Lazarela Kalezic-Trisic, and Jelena Cvetkovic.

We extend our gratitude to our colleagues from REC country and field offices for the help they provided, namely Alken Myftiu, Nesad Seremet, Djordje Stefanovic, Dalia Matijevic, Zeqir Veselaj, Slavjanka Pejcinovska-Andonova, Srna Sudar Vilotic, and Ana Popovic.

We extend our gratitude to all ministerial staff-members who answered the questionnaire or were interviewed by the author.

The publication also involved the hard work of the REC Publications and Communications Department, namely Sylvia Magyar for coordinating the whole publishing team, Steven Graning and Greg Spencer for copy-editing and proofreading, and Patricia Barna for lay-out and design.

While too numerous to mention by name, those who provided materials, facilitated contacts and gave other important forms of support to the report are gratefully acknowledged for their key contributions.

Part I

Regional Perspective

Introduction

Old environmental laws need revision and new laws need to be adopted for South Eastern Europe (SEE) to meet the demands of domestic legal development, move to a more sustainable approach to economic progress, adhere to the European Union approximation process, and fulfil international obligations under numerous multilateral environmental agreements.

Over the past three years, the countries of SEE have made significant progress in meeting their obligations within the Stabilisation and Association Process (SAP). There have been considerable efforts devoted to upgrading and aligning domestic environmental legislation with the EU environmental acquis.

Since 2003, all SEE countries have adopted a significant number of new environmental laws, reorganised institutions in charge of environmental protection, drafted new policy plans and programmes and carried out large European Commission technical assistance projects. Virtually all SEE countries have new environmental framework laws in place which can serve as the legal basis for subsequent legislation. Most SEE countries have drafted environmental strategies and plans and have set new priorities for legal drafting activities. Large international assistance projects, including those of the EU, have assisted in the elaboration of policy and action plans as well as legal drafting activities.

The report

The overall goal of this report is to provide a regional overview of environmental law progress in SEE as a tool to boost regional cooperation, foster exchange of outputs and encourage the development of informed strategic approaches to environmental law drafting. It is a follow-up to the report *Assessing Environmental Law Drafting Needs in South Eastern Europe*, referred to in this publication as the Phase 1 report.

Scope

This report identifies and discusses from a comparative perspective the progress of the law-making processes in SEE in light of the intensive development taking place within the framework of the SAP. The report focuses specifically on the approximation of domestic

environmental legislation to the *acquis communautaire*.

The report provides regional and country/entity-specific information and analyses of general and sectoral environmental legal issues. General issues include environmental legal and institutional set-up, legal drafting processes and approximation strategies, law drafting priorities, lessons learned from international assistance, and cooperation in law drafting. Environmental sectoral sub-chapters deal with competent authorities, laws and regulations in force, status of legislation, law drafting in progress, obstacles, achievements and needs. In addition this report makes recommendations for each country on how the approximation process can be improved. In addition, general regional recommendations are provided in relation to matters pertaining to all the countries of the region, including ways in which they can cooperate on legal reforms.

This report is based on information available as of March 2005.

Methodology

The preparation of this report went through several stages: an initial stage, primary investigation, analysis and writing, follow-up and the making of recommendations.

In the initial stage the author reviewed extant research on the environmental legislation of SEE states and the EU. The author compiled a list of potential interviewees and prepared a questionnaire to be sent to all relevant stakeholders.

The primary research stage involved the collection of SEE national environmental legal acts and EU directives. A series of interviews of relevant stakeholders was conducted with the use of a questionnaire. Simultaneously, an overview of the EU environmental acquis was prepared, while the author reviewed literature and legal documents from the REC country offices and other sources. Among the other sources were representatives from the main law drafting projects of the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) programme. Additional written sources were identified during the research.

The Environmental Law Drafting Network of Senior Officials (ELDNSO) supported the project by helping to collect and analyse the information. In February and

March 2005, the author met several ELDNSO representatives and local REC project officers in selected SEE countries and conducted interviews with ministry representatives. The gathering of information was completed by April 2005.

Within the country reports very basic analyses of the quality of the most important legal acts in SEE was undertaken by the author in order to assess legal progress and needs. A draft version of the country reports was produced by the end of June 2005 for review by officials from the environmental ministries in the SEE countries. Most comments received were incorporated into the present text.

Obstacles identified by the author when gathering the information included:

- A large number of laws and other relevant documents in the SEE countries were not available in English or only in rather poor translations.
- Several questionnaires were returned late or not at all; most of them reflected only the opinions of individuals and hence may not have given a full picture.
- Some meetings scheduled did not take place.
- The legal drafting process in most SEE countries is a continuing process. Consequently, some laws that were still in the drafting stage or in the parliamentary process entered into force by the summer of 2005. Wherever possible this has been noted in the text.

Due to the limited scope of this report, the analytical work must be considered as a basic evaluation of achievements and activities only in light of approximation to EU environmental legislation. In-depth analysis of individual laws was not the goal of this report. Instead the report provides a comparative overview on the status quo of the environmental legal set-up in SEE and progress made since the Phase 1 report was published in 2003.

Structure

The first half of the report deals with general regional issues of environmental law drafting. Following the introduction, the second chapter provides the legal basis of the investigation by summarising the EU environmental acquis and structuring it according to environmental sectors, as with horizontal legislation. The sectors are water quality, air quality, nature protection, waste management, industry pollution control and risk management, chemicals and genetically modified organisms, noise, and nuclear safety and radiation protection.

A regional overview is then given of the present institutional set-up in the SEE countries, the status of approximation with EU environmental legislation, the different approximation strategies, priorities for environmental law drafting, procedures for law drafting, cooperation between the states on law development and highlights of achievements and needs. The fourth chapter specifies the main findings by environmental sector, followed by regional conclusions and recommendations.

The second half of the report deals with the SEE countries and entities. Each chapter is devoted to one country or even a separate entity where relevant. The structures of these chapters are identical. Starting with general issues of environmental law making such as the environmental and legal set-up, priorities, strategies for approximation to EU law and legal drafting cooperation, they then deal with environmental sectors separately. Each environmental sector begins with the identification of competent authorities, continues with laws and regulations in force and in draft and their proximity to the EU environmental acquis, and ends with obstacles, achievements and needs.

This report was drafted as an output of the project, Assistance in Environmental Law Drafting in South Eastern Europe, a project funded by the European Commission under the CARDS regional programme in the context of the Regional Environmental Reconstruction Programme for South Eastern Europe (REReP).

A Brief Overview of the Environmental Acquis Communautaire

Introduction to European Union environmental policy

The European Community has been active in the field of environmental legislation since the early 1970s. In 1972 the first of six consecutive environmental action programmes started. These action programmes, and the legislation adopted during their implementation, initially took sectoral and vertical approaches to limiting pollution by fixing minimum standards, especially as concerns water and air pollution and waste management.

In virtually every field in which the EU promotes new legislative acts, environmental protection must be taken into consideration. More than 200 pieces of legislation, mostly in the form of directives, have been adopted by the EC in the field of environment. These legal acts are called commonly the “environmental acquis.”

EU environmental legislation covers environmental quality protection, polluting and other activities with negative environmental impacts, production processes, products, procedural rights for stakeholders and standards for administrative procedures.

Quality standards have been set for air, waste management, water, nature protection, industrial pollution control, chemicals, genetically modified organisms (GMOs), noise and nuclear safety/radiation protection. There are also a number of highly important “horizontal issues,” such as environmental impact assessment, access to environmental information, and environmental liability, that are of relevance in almost all areas of environmental law.

Forms of legislation

EU law can be divided into primary and secondary law. Primary law consists of the following treaties and their related protocols and agreements:

- a) the consolidated version of the treaty establishing the European Community of March 25, 1957, which incorporates the last amendments made by the Treaty of Nice signed on February 26, 2001;

- b) the Treaty on European Union (consolidated version); and
- c) the treaty establishing the European Atomic Energy Community of March 25, 1957.

Acts of secondary legislation are those adopted by the competent bodies of the EU and, in terms of the legal hierarchy, fall below the primary law. Pursuant to Article 249 of the EC Treaty, institutions of the European Commission can apply four kinds of legal instruments: regulations, directives, decisions and recommendations/opinions.

Regulations have general applications. They are binding in their entirety and directly applicable in a member state. Consequently, there is no need to transform them into national law, although “supportive” legal acts can be enacted on a national basis as long as they do not contradict any regulations.¹

Directives oblige a member state to achieve a certain result, but leave it to the national authorities — and the national lawmakers — to choose the appropriate forms and methods for achieving it. In the field of environment, directives play a much larger role than regulations. As a result, EU member states have a great deal of latitude in how they go about achieving specific EU targets and in how they transpose procedural requirements into domestic law. It comes as no surprise then that environmental legislation varies widely from country to country in both the legal approach and the structure of domestic laws.

For instance, some countries, such as the Netherlands and Denmark, have a framework environmental law which covers virtually all areas of environmental law, with subsidiary sectoral laws and statutes. Others, such as Austria, Belgium and Germany, opt instead for a huge number of sectoral laws and regulations, often on a regional as well as on a national level.

Decisions are binding in their entirety, whereas **recommendations** and **opinions** have no binding force.

Directives are the dominant form of legal instrument in European environmental law. Normally, procedural and administrative provisions are regulated within the text of a directive, while specific standards, thresholds and parameters are stipulated in annexes to these directives.

Horizontal legislation

A number of important directives are not focused directly on the environment, but instead apply horizontally to all environmental fields.

Environmental impact assessment (EIA) is a key instrument of EU environmental policy. The first Directive on the Assessment of the Effects of Certain Public and Private Projects on the Environment (**EIA Directive**) was enacted in 1985 (85/337/EEC). After several years of use, the directive was substantially amended through Directive 97/11/EC. EIA is used to identify, describe and assess the expected and potential direct and indirect effects of a project before it starts.

In 2003 the EIA Directive was amended again in light of the Aarhus Convention by Directive 2003/35/EC. The amendment secured public participation in the drawing up of certain plans and programmes.

In 2001 the **Strategic Environmental Assessment (SEA) Directive** (2001/42/EC) was passed to ensure that the environmental consequences of certain plans and programmes are identified and assessed during their preparation stage and before they are adopted. Member states were required to transpose the SEA Directive into their legislation by July 2004. The directive should lead to more environmental considerations being taken into account during planning processes and should increase transparency through public involvement in early planning stages.

Another directive with horizontal implications was the **Access to Environmental Information Directive** (90/313/EEC). It stipulated that, in general, information on the environment collected by public bodies needed to be made available to the public. This directive was repealed by Directive 2003/4/EC, which was to be implemented by EU member states by February 14, 2005. The new Access to Information Directive also transposes the requirements of the Aarhus Convention requirements into European law. The Aarhus Convention has also been ratified by Albania, the former Yugoslav Republic of Macedonia (accession) and several EU member states, and was signed by Croatia and the EC as legal persons.

In April 2004 the **Directive on Environmental Liability with Regard to the Prevention and Remedying of Environmental Damage** (Directive 2004/35/EC) was adopted. This directive will be another cornerstone of European environmental law. The directive introduces fault-based liability for operators, who must bear the costs of preventive or remedial action to avoid or limit environmental damages. Member states must transpose this directive into their domestic laws by April 30, 2007.

Two relevant regulations complement the horizontal environmental acquis. **The Eco-Management and Audit Scheme (EMAS)** was introduced by regulation

1836/93 as a voluntary scheme for companies and other organisations willing to commit themselves to evaluating and improving their environmental performance. Since 2001 EMAS has been open to all economic sectors, including public and private services through Regulation 761/2001 (**EMAS II**).

Regulation 880/92 introduced the **EU Eco-label Award Scheme** into environmental policy. This scheme is a market-based voluntary instrument that promotes the design, production, marketing and use of products and services that have a reduced environmental impact during their entire life-cycle and provide consumers with better information on the environmental quality of products and services. The regulation was revised in 2000 (regulation 1980/2000).

Water quality

EU water protection legislation provides for a wide range of environmental protection measures, including product standards (e.g. for drinking water), environmental quality standards (e.g. bathing water, and dangerous substances) and emission standards (e.g. urban wastewater, and dangerous substances). The water directives interact significantly with each other and, of course, with horizontal directives such as the EIA and IPPC directives.

Until 2000, EU policies had been rather specific in the issues they addressed. The **Water Framework Directive** (2000/60/EC) then established a broad requirement for environmental protection based on ecosystem protection rather than individual chemical parameters. The directive requires integrated water management that invites participation from all relevant stakeholders. The directive, which should have been transposed into national law by December 22, 2003, will repeal — at least in part — the **Surface Water for Drinking Water Directive** (75/440/EWC) in the near future, which was the first directive in this field. Its goal is to improve the water quality of surface waters used for drinking water abstraction through the setting of quality criteria. It will be repealed by the new Water Framework Directive, which incorporates most of its provisions in October 2007.

The **Directive on Dangerous Substances to the Aquatic Environment** (76/464/EWC) and its daughter directives require the reduction or prevention of both direct and indirect discharges of dangerous substances to water. These substances are toxic to humans and aquatic organisms. This directive will be repealed in 2013 by the Water Framework Directive.

The prevention or reduction of the discharge of a specified list of dangerous substances to ground waters shall be achieved with the **Directive on the Protection of Groundwater** against pollution through cer-

tain dangerous substances (80/68/EWC). The content of this directive has been incorporated into the Water Framework Directive; it also will be repealed in 2013.

The following directives are also relevant in the field of water management.

The **Directive on the Quality of Bathing Waters** (76/160/EWC) determines a range of quality standards for bathing waters, especially as concerns protection from microbial contaminants.

The **Quality of Drinking Water Directive** (80/778/EWC as amended through 98/83/EC) goes beyond the Drinking Water Abstraction Directive. It sets objectives and product standards by stipulating parameters for the pollution of drinking water with certain substances, such as microbial contamination, lead and pesticides.

The **Urban Waste Water Treatment Directive** (91/271/EWC) aims to improve the collection and treatment of urban wastewater through the establishment of technical standards for the primary and secondary treatment of urban wastewater for population centres of different sizes. The directive also addresses industrial wastewater.

The **Nitrates Directive** (91/676/EWC) aims to minimise or prevent the pollution of water caused by the use and storage of inorganic fertiliser and manure on farmland. The directive seeks to protect drinking water supplies and ecosystems from eutrophication caused by agricultural pollution.

Air quality

The EU environmental acquis addresses the problem of air pollution in different ways:

- Emission limits have been set for pollutants from industry and vehicles.
- Overall national ceilings have been stipulated to limit emission of specific pollutants.
- Air quality standards were adopted for health and ecosystems.
- Air quality management measures on the local level are required to ensure cost-effective implementation.

The **Air Quality Directive** (96/62/EWC) provides a framework for ambient air quality management. It establishes ambient air quality standards and objectives, regulates the assessment of air quality and the provision of information to the public, and requires the development and implementation of programmes to maintain or improve air quality in the member states.

Emission limit values and alert thresholds for various ambient air pollutants such as sulphur dioxide and particulates, nitrogen dioxide and lead are set through daughter directives. The Directive on the Reduction of

Volatile Organic Compounds (VOC) from Industry (99/13/CE) aims to reduce the use of solvents in industrial processes. VOC emissions are tackled also by a directive on these emissions from storage and transport of petrol (94/63/EC).

The **Large Combustion Plants Directive** (88/609/EC as amended) limits emissions of sulphur dioxide (SO₂), nitrogen oxides (NO_x) and dust from large combustion plants, such as power stations and oil refineries. The directive distinguishes between new and existing plants (those approved before 1987). For existing plants the directive stipulates national emission limits, while for new plants emission limits must be determined in individual authorisations based on "best available techniques not entailing excessive cost" (the BATNEEC principle).

EU member states are required to establish ozone monitoring networks and are obliged to provide warnings on ozone concentrations to the public through the media when ozone levels exceed certain thresholds (Directive 92/72/EWC on Air Pollution through Ozone).

Directive 2001/81/EC establishes national emission ceilings for SO₂, NO_x, VOCs and ammonia from all sources within a member state except maritime and aircraft traffic. Member states are required to draft and submit programmes for the progressive reduction of the above mentioned atmospheric pollutants and shall comply with the emission ceilings stipulated by the EU for each state by 2010 at the latest.

Nature protection

Two EU directives deal with the conservation of European wildlife, focusing on the protection of sites as well as species. The 1979 **Birds Directive** (79/409/EWC) identified 181 endangered species and sub-species for which the member states are required to designate special protection areas (SPAs). The **Habitat Directive** (92/43/EEC) aims to protect wildlife species and their habitats. Each member state is required to identify sites of European importance and to put in place a special management plan to protect them, combining long-term preservation with economic and social activities, as part of a sustainable development strategy. These sites, together with those of the Birds Directive, make up the cornerstone of EU nature protection policy: the Natura 2000 network.

Waste management

Five principles serve as the basis for the European Waste Management Policy (see Box 1). These principles are reflected in EC waste legislation and hence need to be taken into consideration when a member state composes waste policy and legislation. EC legisla-

tion consists of two directives that can be considered as the “backbone” of EC waste legislation: the **Waste Framework Directive** (75/442/EEC), which has been amended several times since its adoption in 1975, and the **Hazardous Waste Directive** (91/689/EEC), which supports the framework directive as concerns the management of hazardous wastes. A number of other directives complement this framework.

Several directives focus on specific waste streams, with special attention paid to the waste hierarchy and producer responsibility. These directives include: **Waste Oils** (75/439/EEC), **Waste from the Titanium Dioxide Industry** (78/176/EEC), **Sewage Sludge** (86/278/EEC), **Batteries and Accumulators** (91/157/EEC), **Packaging and Packaging Waste** (94/62/EC), **Disposal of PCBs and PCTs** (96/59/EC), **End-of-Life Vehicles** (2000/53/EC) and **Waste Electrical and Electronic Equipment** (WEEE) (2002/96/EC).

Other directives address waste management operations, such as the **Municipal Waste Incineration Directives** (89/429/EEC and 89/369/EEC),² the **Hazardous Waste Incineration Directive** (94/67/EC)³ and the **Landfill of Waste Directive** (99/31/EC).

A decision of the European Commission (2000/532/EC) established a detailed **list of wastes** and repealed the former European Waste Catalogue and Hazardous Waste List. This new list of waste distinguishes between hazardous and non-hazardous wastes.

Regulation 259/93/EEC regulates in detail the **supervision and control of shipments of waste** within, into and out of the EC in accordance with the self-sufficiency and proximity principles. As all other EC regulations, it has direct effect in the EU member states.

Industrial pollution

The **Directive on Integrated Pollution Prevention and Control** (IPPC Directive, 96/61/EC) aims to control emissions from all industrial installations with a high potential to pollute the environment. The directive details an integrated permit system for industrial operators that member states need to comply with. Major industrial installations may only be operated if the operator holds a permit containing requirements for the protection of air, water and soil, waste minimisation, accident prevention and, if necessary, site clean-up. When establishing the emission thresholds for compliance, these limits should be based on the use of the best available techniques (BAT) by the operator. Thresholds determined in other EC directives serve as minimum emission limit values.

Public participation is another key feature of the directive. The IPPC Directive was amended in 2003 (Directive 2003/35/EC) in order to secure public participation in the decision-making process and provide the public with access to justice.

The Directive on the Control of Major-Accident Hazards Involving Dangerous Substances, known as the **Seveso Directive** (82/501/EEC), is the key legal instrument dealing with industrial risks. This directive aims at minimising the risk of industrial accidents and their consequences. It was replaced by the **Seveso II Directive** in 1996 (96/82/EC), whose aim is two-fold. Firstly, it is aimed at preventing major-accident hazards involving dangerous substances. Secondly, as accidents do continue to occur, the directive is intended to limit the consequences of such accidents not only for people (safety and health aspects) but also for the environment. Among other things, it contains requirements related to safety management systems, emergency planning and land-use planning and provisions on inspections to be carried out by member states.

BOX 1

Principles of the European Waste Management Policy

- **Waste management hierarchy** — Preference must be given first to waste prevention and the reduction of its harmfulness. Where this is impossible, waste materials should be reused, recycled, recovered or used as a source of energy. As a last resort, waste should be disposed of safely.
- **Proximity** — Wastes should be disposed of as close to the source as possible.
- **Producer responsibility** — Economic operators and manufacturers of products must be involved in the process of closing the life cycle of substances, components and products in order to minimise the generation of waste.
- **Self-sufficiency** — To the extent possible, member states need to establish an integrated and adequate network of waste disposal facilities.
- **Polluter pays** — The cost of waste disposal must be born by either the waste holder, the previous holder or the producer of the product from which the waste came.

Source: Commission Communication to Council SEC (89) 934 Final.

Chemicals and GMOs

As early as 1967 the European Community recognised that consumers should be protected from risks associated with certain substances. The Directive on Classification, Packaging and Labelling Of Dangerous Substances (67/548/EWC) was the first step in addressing such substances. Since then, directives related to restrictions on the marketing and use of certain dangerous substances and preparations (76/769/EWC) and the classification, packaging and labelling of dangerous preparations (99/45/EC) have been adopted. Still, the current EU legislative framework on chemical substances is considered as a patchwork which does not offer sufficient information for assessing and controlling these substances effectively. With this in mind, in 2001 the EC developed a new strategy for ensuring a high level of chemicals: the Registration, Evaluation, Authorisation and Restriction of Chemicals (**REACH**). A regulation establishing the REACH system that has been proposed by the Commission in 2003 is in the law making process of the European institutions.

The **Directive on the Deliberate Release into the Environment of Genetically Modified Organisms** (2001/18) regulates experimental releases of GMOs and their placement on the market.

Directive 90/219/EEC, as amended by Directive 98/81/EC, addresses the **contained use of GMOs**, and regulates research and industrial work activities involving GMOs under conditions of containment (e.g. in laboratories).

Regulation 1829/2003 on **GMO food and feed** regulates market placement of food and feed products containing or consisting of GMOs and also provides for the labelling of such products for the final consumer. Regulation 1830/2003 introduces a harmonised EU system to trace and label GMOs, and to trace food and feed products produced from GMOs.

Noise

Environmental noise, which is mainly a result of traffic, industry and recreational activities, is one of Europe's leading environmental problems in urban areas. The European Community has been regulating noise levels for more than 20 years with directives adopted to minimise noise pollution.

Directive 70/157/EEC stipulates noise limits for **motor vehicles** which must be met. These limits have been amended numerous times since 1970. Legislation setting limits for the permissible sound level of **motorcycles** has been in existence since 1978 (Directive 78/1015/EEC).

Directive 92/14/EEC is the latest in a series of leg-

islative measures begun in 1979 aimed at limiting **aircraft noise**. It uses the benchmark standards specified by the International Civil Aviation Organisation to the Chicago Convention.

Directive 89/392/EEC (**Machinery Directive**) lays down provisions on health and safety concerning the design and construction of machinery, including noise emissions. Machinery needs to be designed and constructed so that airborne noise is reduced to the lowest level possible, taking account of technical progress and the means available to reduce noise. Since these directives covered only a small range of noisy equipment, an **Environmental Noise Directive** was adopted in 2002 (Directive 2002/49/EC) which serves as a framework for a common approach to measures against harmful effects due to noise exposure. The directive requires competent authorities in member states to:

- draw up "strategic noise maps" for major roads, railways, airports and agglomerations, using harmonised noise indicators;
- inform and consult the public about noise exposure, its effects, and the measures considered to address noise, in line with the principles of the Aarhus Convention; and
- draw up action plans to reduce noise where necessary.

Nuclear safety and radiation protection

In contrast to all of these legal acts, which are legally based on the EC Treaty, the Euratom Treaty is the main legal basis for European directives and regulations in the area of nuclear safety and radiation protection. Basic standards to protect the health of workers and the general public against dangerous radiation are stipulated in the **Basic Safety Standards** Directive (96/29/Euratom), which can be seen as a kind of framework directive in this area. A number of further directives address specific sectors, such as **radiation protection from medical exposure** (Directive 97/43/Euratom), **health and safety of outsider workers** (Directive 90/641/Euratom), **shipments of radioactive waste** (Directive 92/3/Euratom) and **informing the public in cases of emergency** (89/618/Euratom).

The **shipment of radioactive substances** is regulated in Euratom Regulation 1493/93. However, many detailed requirements for other areas within the nuclear safety and radiation protection sector can be found in international conventions.

ENDOTES

- 1 See, for instance, the German law on shipment of waste (Abfallverbringungsgesetz) of September 30, 1994, which regulates a range of further procedural details of shipments within, into and out of Germany.
- 2 No. 89/429 addresses municipal waste incineration plants which existed before 1989, whereas 89/369 addresses municipal waste incineration plants built since.
- 3 The new Incineration of Waste Directive (2000/76/EC) will repeal these three incineration directives as of December 28, 2005.
- 4 See REACH in Brief, European Commission, September 15, 2004, page 2.

Regional Overview

Overview of the present environmental institutional set up in the SEE countries

Although all countries except Albania are successor states of the former Yugoslavia, their institutional set-ups vary considerably, reflecting the political developments of the past decade. Generally, core competences for environmental issues lie at the state level, but there are a few exceptions.

In **Bosnia and Herzegovina** for example, only a handful of competences are held at the state level, while the two entities are responsible for the development, implementation and enforcement of the majority of environmental legislation. Whereas Republika Srpska (RS) follows a centralised approach, the Federation of Bosnia and Herzegovina (FBiH) assigns a good deal of responsibility to cantons and municipalities. The Statute of the District of Brčko, which has the same legal status as both entities, stipulates that all laws and regulations from both entities shall remain in force in the district, as long as they do not contradict the provisions of the statute.

In **Serbia and Montenegro** only the accession and ratification of international conventions are performed at the state-union level, whereas implementation is carried out by the two constituent republics. Within the Republic of Serbia, the autonomous province of Vojvodina was granted some areas of competence for the implementation of certain environmental duties in a law passed in 2002.

In **Kosovo** (territory under interim UN administration), most environmental provisions have been issued as administrative orders by the Special Representative of the Secretary-General (SRSG). In the future, however, the Ministry of Environment and Spatial Planning as part of the Provisional Institutions of Self-Government (PISG) will take over all aspects of the environmental field.

In all of these countries there is a ministry at the state or entity level that is the key body for environmental policy, its implementation and its coordination. In most cases, there is no separate ministry of environment (except Albania), but a

common ministry for environment and spatial/territorial planning/construction. This can have advantages and disadvantages. One advantage in most cases is that other matters which are closely linked to the protection of the environment can be better coordinated within the same authority. The disadvantage in this case is that other departments may be much stronger than those in charge of environmental protection, which often results in the environment taking a back seat to other interests. In the Republic of Montenegro, for example, the main governmental environmental authority, the Ministry of Environment and Physical Planning (MEPP), has a staff of almost 80 people in charge of planning, while the environmental department has just 12.

In Bosnia and Herzegovina the Ministry of Foreign Trade and Economic Relations is the environmental coordination authority on the state level, and in the Republic of Serbia, the key competent authority is the Ministry of Science and Environmental Protection.

Notwithstanding the fact that there is a key ministry charged with the bulk of responsibilities in the area of environmental policy and legislation, environmental policies and competences are generally shared with other institutions and bodies.

Table 1 shows the ministries in the SEE countries and entities which are competent for legal drafting activities in the respective areas. Being in charge of legal drafting most often implies that those ministries are the line bodies responsible for the implementation of the regulations in force. The allocation of legal competences in the table is largely based on statements made by representatives of the environmental ministries. For some areas there was neither a statement made nor did the legal sources available provide sufficient information. It is possible that, for some areas, environmental ministries claim legal competence without actually having it.

Some common tendencies hold for the region as a whole:

- The number of legal competences held by the ministries of environment¹ in the nine fields of the environmental *acquis communautaire* ranges from nine (Albania, the former Yugoslav Republic of Macedonia and the Republic Serbia) to a mere five areas (Croatia).

TABLE 1

Competent ministries

	Albania	FBiH	Republika Srpska	Croatia	FYROM*	Rep. of Serbia	Rep. of Montenegro	Kosovo**
Horizontal legislation	MoE	MPPE	MPPCEE	MEPPPC	MEPP	MSEP	MEPP	MESP
Water protection	MoE, MoH, MoAF, MoTAT	MPPE, MAFWM	MPPCEE, MAFWM	MEPPPC, MAFWM MSTTD	MEPP	MSEP	MEPP	MESP
Air protection	MoE, MoH, MoIE, MTT	MPPE	MPPCEE	MEPPPC	MEPP, MoH	MSEP	MEPP	MESP, HM
Nature protection	MoE, MoAF	MPPE, MAFWM	MPPCEE, MAFWM	MoC	MEPP	MSEP	MEPP, MAFWM	MESP, MAFRD
Waste management	MoE, MoIE	MPPE, MoH	MPPCEE, MoH	MEPPPC, MoHSW, MoELE	MEPP	MSEP	MEPP	MESP (?), DTI
Industrial activities and risks	MoE, MoLSA, MoLGD, MoH	MPPE	MPPCEE	MEPPPC	MEPP	MSEP	MEPP, MIA	?
Chemicals and GMOs	MoE	?	?	MoELE, MoC, MoHSW	MEPP	MSEP, MAWM	MoH	?
Noise protection	MoE	?	?	MoHSW	MEPP	MSEP	MEPP, MoH	MESP (?)
Nuclear safety/ radiation protection	MoH	?	?	MoELE, MoHSW	MEPP, MoH	MSEP, MoH	MEPP, MoH	?

Albania: MoE = Ministry of Environment, MoH = Ministry of Health, MoAF = Ministry of Agriculture and Food, MoTAT = Ministry of Territory Adjustment and Tourism, MoIE = Ministry of Industry and Energy, MoLSA = Ministry of Labour and Social Affairs, MoLGD = Ministry of Local Government and Decentralisation, MTT = Ministry of Transport and Telecommunications

Federation of Bosnia and Herzegovina: MPPE = Ministry of Physical Planning and Environment, MAFWM = Ministry of Agriculture, Forestry and Water Management, MoH = Ministry of Health, MEMI = Ministry of Energy, Mining and Industry, MoTC = Ministry of Transport and Communications

Republika Srpska: MPPCEE = Ministry of Physical Planning, Civil Engineering and Ecology, MAFWM = Ministry of Agriculture, Forestry and Water Management, MoH = Ministry of Health

Croatia: MEPPPC = Ministry of Environmental Protection, Physical Planning and Construction, MAFWM = Ministry of Agriculture, Forestry and Water Management, MoC = Ministry of Culture, MoELE = Ministry of Economy, Labour and Entrepreneurship, MoHSW = Ministry of Health and Social Welfare, MSTTD = Ministry of the Sea, Tourism, Transport and Development

***Former Yugoslav Republic of Macedonia:** MEPP = Ministry of Environment and Physical Planning, MAFWE = Ministry of Agriculture, Forestry and Water Economy, MoTC = Ministry of Transport and Communication, MoE = Ministry of Economy, MoH = Ministry of Health

Republic of Serbia: MSEP = Ministry of Science and Environment, MAWM = Ministry of Agriculture and Water Management, MoH = Ministry of Health, MoJLG = Ministry of Justice and Local Government

Republic of Montenegro: MEPP = Ministry of Environment and Physical Planning, MAFWM = Ministry of Agriculture, Forestry and Water Management, MoH = Ministry of Health, MoE = Ministry of Economy, MIA = Ministry of Internal Affairs

****Kosovo (territory under UN interim administration):** MESP = Ministry of Environment and Spatial Planning, MAFRD = Ministry of Agriculture, Forestry and Rural Development, WWRO = Water and Wastewater Regulatory Office, DTI = UNMIK Department of Trade and Industry, HM = Health Ministry

- There are very few fields and few countries/entities where the responsibilities for environmental law drafting lie only with the environmental ministries. This is the case with horizontal legislation, which can be regarded as the basic area of environmental legislation drafting. It is critical for environmental ministries to have sole competence over horizontal areas such as permitting procedures, public participation in these procedures, access to environmental information, and environmental liability because they affect virtually all other environmental areas.
- Environmental administration, as is always the case with economies in transition, is relatively weak in the region. Environmental protection is usually not a political priority and even occasionally stands in the way of ambitious goals stated by some countries. The setting up of the environmental ministerial administration, regional or local authorities, and other such bodies takes a great deal of time, effort and financial resources.
- The legal framework for powers and responsibilities of local governments is another institutional development challenge in the region. In some countries, legal reconstruction in this field has already started.
- A precondition for the establishment of an integrated pollution prevention and control (IPPC) regime is that one line ministry must be in charge of the permitting process as concerns industrial activities. Although no SEE country or entity has a functioning integrated permitting procedure in place, the fact that horizontal and industry-related legal competences in most of the countries and entities lie entirely within the environmental ministries is a promising starting point.
- Throughout the region, legal competences in the field of water protection/management are divided among a number of ministries (five ministries in the case of the former Yugoslav Republic of Macedonia). Consequently, the situation is often confusing because of overlapping or unclear competences. There are strong efforts in some SEE countries/entities to bundle responsibilities for water protection in the environmental ministries. The picture is even more complicated considering that municipalities and public enterprises also play roles in most issues related to local water management, water supply and wastewater treatment.
- In the field of waste management, municipalities are responsible for implementing household and municipal waste activities in almost all of SEE. Municipalities are also in charge of enacting implementing and local regulations. In this case, it is

important that drafting is done on the local level, in a homogeneous manner and in line with legislation on the national or entity level.

- While most of the countries researched assign nature protection roles to the respective ministry of environment and/or to the ministry of agriculture, the region sometimes produces quite unusual solutions regarding allocation of competences. A perfect example is the delegation of nature conservation powers to the Ministry of Culture in Croatia.

In addition, in most countries and entities, the institution-building process is ongoing, as ministries are merging or new bodies or institutions are created, leading to the transfer of and changes to competences. In some cases these changes indicate a disturbing tendency, such as in Albania where it is expected that the Ministry of Environment will be merged in the near future with another ministry, most likely the Ministry of Territory Planning and Adjustment.

A key problem is that in almost all countries/entities, coordination mechanisms between ministries are said to be often informal or even non-existent. For instance, the Ministry of Environment (MoE) representatives interviewed in Albania noted a considerable deficiency in inter-ministerial coordination, and legal drafting working groups are only established informally.

As long as no clear competences are allocated between governmental bodies, the establishment of functioning communication and coordination mechanisms is vital. Attempts to establish coordination mechanisms have been made, for instance, in FBiH.

Apart from the common aspects highlighted above, the situation as concerns the environmental legal set-up and its development in the last few years is quite different.

In Albania, the MoE has undergone several changes since 1998, starting from a Committee for Environmental Protection, to a National Environmental Agency, and it is soon expected to merge with the Ministry of Territorial Planning and Adjustment. However, some environmental competences are still held by other ministries or there is some confusion (see Table 2). There is also a lack of formal delineation of competences or any directive on coordination between them.

In an effort to address the lack of clarity in the sharing of environmental competences and improve coordination in **Bosnia and Herzegovina**, and as a result of the intervention of the UN's Office of the High Representative, two coordination committees were created in 1998: the Inter-entity Commission for Water and the Inter-entity Steering Committee for the Environment, with support from the REC. Both bodies have had a role in the approval of new environmental laws in both entities in 2002 and 2003, and have been delegated some tasks by the entities, particularly those

related to international matters and harmonisation.

A State Law on Ministries and Other Bodies of the Administration of 2003 (BiH OG 05/03) foresaw the fulfilment of international obligations in the field of environmental protection and the use of natural resources, as well as in agriculture, energy and tourism by the Ministry of Foreign Trade and Economic Relations, which is responsible for defining policy, coordinating activities and harmonising plans of the entity authorities. On the state level a separate ministry coordinated the European integration process and legal harmonisation until 2002.

New laws were passed in 2003 by FBiH, including the Law on Federal Ministries and Other Administrative Bodies in the Federation of Bosnia and Herzegovina (FBiH OG 19/2003) and in 2002 by Republika Srpska — the Law on Ministries in Republika Srpska (OG RS 70/2002) — which clarify the assignment of environmental responsibilities to the different governmental bodies in each of the entities. In FBiH, there are three ministries, as well as federal institutes and other bodies carrying out monitoring activities. RS has a less complex and clearer structure. Unfortunately, these competences are not further developed in by-laws or regulations, nor is there an institution to coordinate the environmental work of all these bodies.

To coordinate environmental policy at the state level, the National Steering Committee for Environment and Sustainable Development was established in 2002. But it is generally perceived that overall coordination can only be achieved through the establishment of a state-level environmental legal framework and a state environment agency. The state and the entities are discussing the possibility of establishing this agency, but no firm decision has been made.

At the entity level, competences on the environment are shared differently. In **FBiH**, the structure is decentralised into cantons, which hold important competences, while in **RS** everything is centralised. In both entities municipalities also hold some environmental competences.

In **Croatia** as well there are a number of institutions and bodies in charge of environmental protection. The Ministry of Environmental Protection, Physical Planning and Construction (MEPPPC), established in 2000, is responsible for general environmental policy, soil, climate change, air protection, waste management, EIA, environmental state monitoring and administrative control over the implementation of environmental law (environmental protection inspection).

The Croatian Environment Agency was established in 2002 and acts as a focal point for collecting and integrating environmental data at a national level. It also maintains the environmental database and carries

out environmental monitoring and reporting. The State Institute for Nature Protection was also established in 2002, although it is not yet fully operational. In April 2004, the government founded the National Council for Environmental Protection, an advisory body. Important competences remain, however, with other ministries. The Act on Organisation and Field of Activities of the Ministries and Other Governmental Bodies (from 2003 and 2004) also touches their distribution.

There is one peculiarity in Croatia which is unique for SEE: the competence for nature protection legislation has been given to the Ministry of Culture.

Of all the countries, the **former Yugoslav Republic of Macedonia** appears most advanced in its institutional set-up for environmental management and legal drafting. The Ministry of Environment and Physical Planning (MEPP) is the core governmental authority for almost all environmental fields. It consists of five departments, one of which is in charge of the preparation of legislation, approximation and application of environmental standards.

The MEPP and the Department on EU Integration are responsible for the European legal integration process. The legislation sector has full competence for aligning national environmental legislation to the *acquis communautaire*. It leads the governmental working group on environment under the approximation programme, which is split into several sub-working groups.

Within the **State Union of Serbia and Montenegro** the two republican environmental ministries signed an Agreement on Cooperation on July 12, 2002 in order to better coordinate laws and policies within the state, as well as to achieve full implementation of international commitments. According to this agreement, two republican ministries in charge of environmental protection coordinate their positions related to the ratification of international environmental agreements, take mutual decisions on nominating MEA focal points, and other such tasks.

A coordination body was established within the republics for operational activities in the field of environmental protection. Ministers and deputy ministers from both ministries take part and meet at least once a month or on an ad hoc basis. The Joint State-level Coordination Office (JSCO) will function as a formal state-level focal point on a rotating basis to implement multilateral international agreements and cooperate with the European Environmental Agency.

In the **Republic of Montenegro**, the key ministry is the Ministry of Environment and Physical Planning (MEPP), which has legal competence related to the general policy of environmental protection and other fields. The ministry also has authority over the development and implementation of physical planning

documents, granting permits for construction, arrangement systems and utilisation of construction sites and solid waste management.

As in Montenegro, the constitution of the **Republic of Serbia** stipulates that environmental issues are within the competences of the republic.

The newly established Ministry of Natural Resources and Environmental Protection, established in 2002, was merged in 2004 with the Ministry for Science into the Ministry for Science and Environmental Protection (MSEP). The MSEP, which claims to be the competent authority for all environmental areas of the *acquis communautaire*, is now divided into directorates, including the Environmental Directorate, which has six divisions. Two of these divisions are mainly concerned with legal drafting activities and the process of legal approximation.

As far as the Autonomous Province of Vojvodina is concerned, the Omnibus Law (Republic of Serbia OG No. 6, February 7, 2002) which regulates the constitutional status of Vojvodina, delegates competences in environmental issues, but the province has tasks and powers only regarding the implementation of environmental protection within the legal and institutional system of the Republic of Serbia.

In **Kosovo**, one year after the establishment of UNMIK, the SRSG created the UNMIK Department of Environmental Protection (DEP) as a part of the Joint Interim Administrative Structures. DEP became responsible for activities related to the protection of water resources, air, soil and biodiversity, and also responsible for the implementation of strategies. In 2001 the legal basis for setting up and developing self-government in Kosovo was provided by UNMIK. The regulation adopted provides for the transfer of some governmental responsibilities from UNMIK to provisional institutions of self-government, including environmental protection.

The same year, DEP and the Department of Spatial Planning were merged into a newly created Ministry of Environment and Spatial Planning (MESP). UNMIK Regulation 2002/5, Annex XI, provides MESP with the authority to “develop policies, implement legislation and oversee activities for the protection of the environment including water resources, air, soil and biodiversity,” to “develop norms, standards and issue guidelines in the field of environmental protection with due regard to relevant international standards” and to “oversee adherence to such standards, including, where appropriate, conducting inspection and other services.” Besides most environmental areas, the MESP also administratively assumed the portfolio of the Department of Housing and Construction and the Department of Water Management.

Status of approximation of EU environmental legislation

Overall, the situation in South Eastern European countries largely resembles that of the new EU member states and the current EU accession states from Central and Eastern Europe at the beginning of their approximation processes. SEE countries have made strides towards developing market economies, but the countries' SAA reports show that they have far to go. It is equally important for the rule of law and strong civil societies to be established. The rule of law not only implies that governmental authority may only be exercised in accordance with laws in force adopted through an established procedure, but also requires the adoption of minimum democratic standards to ensure the participation of the public in policy setting and decision making. The countries have only recently embarked on the fundamental restructuring of their legal and administrative institutions in order to adapt to the political, social and economic requirements that arose for them under the SAP. Respect for human rights, and the separation of powers into legislative, judicial and executive functions — as well as between central, regional and local authorities — in accordance with the subsidiary principle are among the most pressing challenges.

The problem of the SEE region that distinguishes it from the CEE region, and which makes the stabilisation process even more difficult, is the post-war legacy and its ethnic conflicts. These conflicts led to the formation of new states and entities within them, often along ethnic lines. As a result, states like Bosnia and Herzegovina and Serbia and Montenegro delegate a large amount of responsibility to authorities at entity level including development and implementation of environmental laws. The different republics and entities persist in maintaining their own identities, part of which requires differences in administrative and legal approaches. These differences are compounded by the slow process of building trust and cooperation to levels necessary for effective joint action. Without the common goal of EU membership, the divergences among the countries would be even greater than they are.

Against this background, the countries of SEE are struggling to integrate environmental protection considerations into this overall restructuring in accordance with the goals of sustainable development and the EU Treaty, in particular through the process of drafting environmental legislation that is consistent with the *acquis communautaire*.

Most of SEE has made considerable progress over the past few years in passing laws that fulfil the requirements of the environmental *acquis communautaire*. In this respect the status of

approximation is far more advanced than it was when the phase 1 report of this project was drafted. The quality of these laws, which could not be assessed in detail for this study, may give a different picture.

In a few cases even the new laws lack fundamental elements such as definitions compliant with EC requirements, precise rights and obligations for legal and natural persons, clear legal competences of authorities, standards to be achieved and thresholds to be complied with. They fall short of determining procedural stages and are sometimes vague and inconsistent, with a lack of vertical and horizontal coordination.

The reasons for these shortcomings are manifold and will be addressed in the final chapter of this report. One aspect that concerns the structure of most environmental laws in the SEE is evident though. Most of the new laws are conceived as framework laws rather than laws which deal with an issue in a finite manner. The laws require a number of specific and detailed subsidiary laws in order to make them applicable and enforceable in practice. Hardly any new legislation is considered complete, although this could in some cases be achieved by means of technical annexes to a law in question. This approach one can find often not only on the EU level but also in the member states. Technical annexes to a primary law, however, seem to lack a legal tradition in SEE, and have never been promoted by international technical assistance projects.

One example of incomplete laws is EIA legislation. Though EIA has been a primary target of legal drafting activities in recent years, in almost all SEE countries and entities, with the exception of the Republic of Serbia, there is no applicable EIA system in place for the simple reason that procedural details have not been regulated. The other problem is that projects subject to an EIA have not been determined. Such determination could have been done in technical annexes to the law. Instead, most primary laws refer to subsidiary legislation still to be drafted.

For that reason one priority of ongoing and planned legal drafting activities which is common to all SEE is the subsidiary legislation that complements the new framework laws. Such legislation is required to stipulate technical details (thresholds and standards) and procedural details. However, often the primary law in force fails to provide sufficient legal competence to draft comprehensive subsidiary legislation. For instance, the environmental laws of the Republic of Montenegro and UNMIK contain few legal competence norms for the ministries to draft sub-legislation in the form of regulations or rulebooks.

There is a significant number of ongoing drafting activities on primary laws, but they differ from country to country and depend either on the priorities set on a

national/entity level or on specific international technical assistance granted in an environmental field. In this light, international projects can be seen as motors for further legal drafting activities.

Remarkably, Croatia is working on modifications and improvements to the existing Environmental Protection Act but the government plans to replace the act completely in 2006. The country took a similar approach to its waste framework law, which was first amended before being replaced with a new Waste Act in late 2004.

In most of SEE, legislation in environmental fields such as noise protection, chemicals, GMOs and industrial safety is either non-existent or based on former Yugoslav laws and regulations. In some places these areas have been prioritised for forthcoming primary legislation to be drafted, such as in the former Yugoslav Republic of Macedonia (noise), the Republic of Serbia (chemicals) and Croatia (industrial safety).

Approximation strategies

Although approximation to EU environmental legislation received little attention during the legal reforms in SEE in the 1990s, it has become the main target during the last two to three years, largely as a consequence of the Stabilisation and Association Process (SAP). Initiated by the European Union in 2000 with the countries of the region, the SAP offers the prospect of accession. As the EU's key strategy towards the region, the SAP represents its long-term commitment to political effort, as well as financial and human resources. For their part, the SEE states can use the SAP as a long-term process to prepare themselves for accession to the EU.

The conclusion of stabilisation and association agreements (SAAs) with the individual countries and entities stands at the end of the first phase of the SAP. They represent the signatories' commitment to completing a formal association with the EU during a transitional period. SAAs encourage them to adopt and implement administrative, legal, policy and economic reforms towards the objectives of the agreements, which are aimed at reaching the overall goal of EU membership candidacy status through the implementation of the same core obligations.

The EU's Community Assistance for Reconstruction, Development and Stabilisation (CARDS) programme assists the SAP, of which environmental law approximation is a part. It brings a more strategic approach to assistance to the SAP countries and underpins the objectives and mechanisms of the process.² CARDS assistance follows the development of the SAP, i.e. it focuses on support for the reforms and institution building needed to conclude the SAA and to then implement its obligations.

BOX 1

SAP progress as of March 2005

Albania

The SAA negotiations with Albania were launched by the EU on January 31, 2003. Since then, nine rounds of negotiations have been held with Albania to conclude an SAA.

Bosnia and Herzegovina

The SAP negotiations with Bosnia and Herzegovina started in 1999. A feasibility study on opening SAA negotiations with BiH was adopted in 2003. The European Commission identified 16 priority reform areas which should be addressed by the country in preparation of concluding an SAA. As soon as “significant progress” has been made with respect to these 16 requirements, the European Commission will decide on the opening of SAA negotiations.³

As concerns the legal approximation process, it is stated in the feasibility study that although BiH has already expressed a willingness to approximate to, implement and enforce EU legislation, its ability to do so is complicated by the division of powers between the state, entities and cantons. To properly implement an SAA, the country would need to ensure adequate mechanisms for cooperation and coordination between the entities in areas of responsibility not vested in the state.

Croatia

SAP negotiations between the EU and Croatia started in 1999. On November 20, 2000 SAA negotiations commenced and one year later (October 29, 2001) the SAA was signed. It entered into force after ratification on February 1, 2005. On February 21, 2003 Croatia submitted its application for EU membership.

Former Yugoslav Republic of Macedonia

SAP negotiations with the former Yugoslav Republic of Macedonia started in 1999 and were soon followed by concrete negotiations on an SAA. Eventually, an SAA was signed on April 9, 2001, which entered into force on April 1, 2004. The country also applied to become an official candidate for EU accession on March 22, 2004. The European Commission is expected to offer a recommendation on Macedonian candidacy in November 2005.

Serbia and Montenegro

Work on a feasibility study on opening SAA negotiations with Serbia and Montenegro commenced during the second half of 2003. However, the feasibility study was postponed after parliamentary elections and the establishment of a new government. On April 12, 2005 the feasibility report assessing the readiness of Serbia and Montenegro to negotiate an SAA was approved by the European Commission.⁴

Kosovo (territory under UN interim administration)

Kosovo is expected to benefit from all elements of the SAP without having the opportunity to establish contractual relations with the EU and hence to reach an SAA. In Kosovo the instrument leading to reforms compatible with EU standards is called the Stabilisation and Association Process Tracking Mechanism.

For countries that have signed an agreement, EU legislation approximation is now an obligation. For the others it is also a major policy goal for political and economic reasons, and in most of the cases it is the top priority. Consequently, newly adopted legislation in the countries and entities should get closer to EU legal requirements.

Country strategies and multi-annual programmes are being drafted accordingly. Before the CARDS programme was initiated in 2001, technical assistance by the EU was granted to the region mainly under PHARE as well as under the OBNOVA programme.

Box 1 provides a brief look at where each of the SEE countries stands in terms of the SAP as of March 2005.

EU accession is the driving force behind all approximation strategies, especially in those countries

with an accession date in view. All of the countries received substantial EU project assistance in the last years, including technical assistance related to the drafting of policy plans and strategies. All countries and entities have been busy developing documents and plans that define their environmental policies and approximation strategies.

Albania has a long road ahead. According to the latest SAA report, its overall implementation of

TABLE 2

Environmental programmes, plans and strategies in South Eastern Europe

Albania

In place:

- NEAP: adopted in 1993, updated in 2002
- Water Strategy since 2004
- Waste Management Plan since 1998
- European Partnership Action Plan
- Coastal Zone Management Plan since 1996

Planned or drafted

- NPAL in drafting process
- Draft National Environmental Strategy (NES)
- Draft Strategy for Hazardous Wastes

Bosnia and Herzegovina (state level)

In place:

- NEAP: adopted in 2003, also adopted by entities, but not by the District of Brcko
- Poverty Reduction Strategy Paper: established in 2004; focus on short-term goals
- Mediterranean Action Plan of 1999
- Strategy of Solid Waste Management (2000/2001)
- Water Management Master Plan of 1994 (former Yugoslavia plan)

Planned or drafted:

- Draft strategy for Environmental Protection and Sustainable Development, awaiting parliamentary approval
- Planned Biodiversity Strategy
- Planned Nature Protection Strategy
- Planned Water Protection Strategy

Croatia

In place:

- NEAP and National Environmental Strategy 2002
- National Water Protection Plan
- National Flood Control Plan
- Contingency Plan for Accidental Marine Pollution

Planned or drafted:

- NPAL: Master plan for EU environmental law approximation to be developed by current EU project
- Water Management Master Plan in drafting process
- National Waste Management Strategy and Action Plan in drafting process
- draft National Strategy for Sustainable Development
- draft National Strategy and Action Plan for the Protection of Biological and Landscape Diversity
- Draft Plan for Protection and Improvement of Air Quality

Former Yugoslav Republic of Macedonia

In place:

- NEAP: 1997-2001 still in force, but being updated
- NPAL adopted in 2004
- Action Plan for Environmental Legislation Harmonisation for MEPP (National Strategy for Environmental Approximation – NSEA)
- Water Management Master Plan, revised every 10 years

TABLE 2

	Planned or drafted: <ul style="list-style-type: none"> • 2005: start of development of National Strategy for Sustainable Development and corresponding action plan • National Waste Management Plan is being drafted • Planned National Strategy for Water
Republic of Serbia	In place: <ul style="list-style-type: none"> • National Assembly decision to tackle certain priorities, government adopts annual action plans for harmonisation with EU law planned or drafted: <ul style="list-style-type: none"> • No NEAP yet, but drafting in its final stage, no NPAL • National Environmental Strategy to be developed by end of 2005 • Draft Strategy on Sustainable Use of Natural Resources • Draft Air Pollution Strategy • Planned National Strategy for Waste Management
Republic of Montenegro	In place: <ul style="list-style-type: none"> • 2001 Strategy on Long-term Strategic Directions • Regional Strategy on Hazardous Waste Management • Strategy of Implementation of Quality System in line with ISO 9000 and ISO 14000 in Montenegro • National Waste Strategy • Agenda of Economic Reforms for Montenegro Planned or drafted: <ul style="list-style-type: none"> • No NEAP or NPAL exists or is planned
UNMIK	Planned or drafted: <ul style="list-style-type: none"> • No NEAP or NPAL exists or is planned • 2004 Draft Kosovo Environmental Protection and Sustainable Economic Development Strategy developed, but not yet approved • No Environmental Protection Programme drafted yet (but legally required) • Planned Strategy for Air Protection • Planned strategic plans for water and water management

legislation in the environmental sector remains weak. No clear strategy on relevant approximation areas is in place, and there are no formal procedures for establishing working groups or determining which ministries have to be involved.

A National Environmental Action Plan (NEAP) has existed since 1993 and was last updated in 2002. The NEAP is the basic document for governmental policy in the field of environmental protection. In addition, all line ministries of Albania are in the process of preparing the National Plan for the Approximation of Legislation (NPAL). This plan will set out the short-term

(2-3 years), medium-term (4-7 years) and long-term (8-10+ years) goals for the approximation of Albanian legislation to EU legislation. Its development is one of the main tasks of the ongoing CARDS project Environmental Legislation and Planning.

Under the CARDS 2002 project Environmental Legislation and Planning in Albania, which started in November 2004, a National Environmental Strategy (NES) shall be developed. This strategy will support the approximation process as set out in the NPAL.

As concerns sectoral policies, Albania developed a water strategy in 2004 but has no water plan. The

existing waste management plan dates back to 1998.

In **Bosnia and Herzegovina**, plans and programmes are generally developed at the state level, although approved by each entity's authorities. Progress has been made in recent years with regard to establishing an adequate environmental policy framework. Its National Environmental Action Plan (NEAP) was prepared with support from the World Bank and adopted at the beginning of 2003 by the entities, but not by the District of Brcko. The document outlines long-term priorities and, among others, provides guidance in drafting laws and policies, and in institution building.

A more recent document, the Poverty Reduction Strategy Paper or Mid-term Development Strategy of Bosnia and Herzegovina (2004-2007), adopted in February 2004, has become the central environmental policy instrument in both entities. It follows the priorities set in the NEAP but focuses on short-term targets.

Other policy-making documents are the Mediterranean Action Plan of 1999, and the State Strategy of Solid Waste Management adopted in 2000-2001 by the governments of both entities (but not by the District of Brcko). There are plans to develop a biodiversity strategy and a nature protection strategy. There is no strategy on water yet and the entities follow the 1994 Water Management Master Plan prepared by the former Yugoslavia.

A significant document at the state level is the draft strategy for environmental protection and sustainable development, adopted by BiH's Council of Ministers and supported by the National Steering Committee for Environment and Sustainable Development. The strategy is awaiting parliamentary approval. There is also work to develop Local Environmental Action Plans (LEAPs). Observers consider that these environmental policy documents provide a good basis for the establishment of a sound environmental policy. The next step should be the creation of such a policy using existing information, along with the establishment of a policy hierarchy.

In **Croatia**, the National Environmental Strategy and the National Environmental Action Plan (NEAP) of 2002 stipulated that environmental aspects should be integrated into other policies as a basic principle. Other sectors such as tourism, transport and energy have incorporated environmental protection into their basic goals, but it is not clear how these strategies will translate into practical measures. According to the European Commission, there are signs that the environment is still not given due consideration vis-à-vis other development needs. There is no national strategy for sustainable development.

A Master Plan for EU Environmental Law Approximation is being developed with the help of an EU Phare project that transposes the *acquis communautaire* and fulfils the obligations under the National Programme for Integration into the EU.

With regard to sectors Croatia already has a national water protection plan, while a water management plan incorporating the requirements of the EC Water Framework Directive is in the process of being drawn up. The competent authorities are developing a national waste management strategy and a waste management action plan.

In the **former Yugoslav Republic of Macedonia**, the National Environmental Action Plan (NEAP) covering the period of 1997-2001 remains the current operative plan because the preparation of a second, updated version of the NEAP started only in 2004. It defines areas of action as well as short-, medium- and long-term goals and activities strategically, but does not set specific legislative goals or a legal approximation timeframe. During the elaboration of the second NEAP the transposition and implementation of EU directives as specified in the Approximation Programme shall be taken into consideration. Another main aspect that distinguishes the first NEAP from the second is that the latter shall be drafted in the light of financial resources available for the implementation of the laws either drafted or to be drafted.

The development of a comprehensive national strategy for sustainable development (NSSD) and a corresponding action plan is planned to commence in 2005, with their adoption scheduled for 2008.

In 2004 a complete Programme for Approximation of the National Legislation (PANL) was adopted and published by the Macedonian government. This programme, which addresses the transposition of environmental law into domestic laws, is updated annually and serves as a control mechanism in the legal approximation process. A procedural manual on the legal approximation process intended to help the authorities involved in the law making process to do this in a uniform manner has been published by the government.

Additionally, a specific Action Plan for Environmental Legislation Harmonisation has been developed to serve the needs of the MEPP as a guide to individual steps and considerations required in the domain of analysis and drafting of laws.

As concerns environmental sectors, there is a water management plan that is revised every 10 years, while a national strategy for water is still to be drafted. A national waste management plan is under way.

Neither the **Republic of Serbia** nor the **Republic of Montenegro** has developed a national

environmental action plan (NEAP). However, the drafting of the NEAP in the Republic of Serbia is in its final stages, with support from a CARDS project. In 2001 the entity government approved a *State-of-the-Environment Report* referring to the year 2000. Based on this report the National Assembly adopted a range of priorities to be tackled in the coming years, including, among others, the design and implementation of new environmental strategies, such as a waste management strategy, a NEAP and LEAPs.

A national environmental strategy is to be developed by the end of 2005 pursuant to the requirements of the new Law on Environment. There is no national strategy for legal approximation in Serbia. However, each year the government of Serbia adopts an action plan for harmonisation of laws with the *acquis communautaire*, which contains a list of laws that should be drafted and harmonised with relevant EU regulations.

The **Republic of Montenegro** also lacks a NEAP, but it has issued a series of policy papers. Most relevant is the 2001 *Development Directions of Montenegro as an Ecological State* on sustainable development (developed in cooperation with the European Centre for Population and Development). The document reflects the distinctiveness of Montenegro with respect to its unique natural characteristics and represents a basis for establishing sustainable development through the integration of economic, environmental and social development. The policy paper defines several key areas for development of priority programmes and projects and defines the government's long-term strategic directions, including environmental aspects.

Since 1992 a state-of-the-environment report has been published annually, and since 2002 it has been in line with European Environmental Agency (EEA) typology of DPSIR (Driving Forces—Pressures—State—Impact—Response) indicators. A regional strategy on hazardous waste management was developed under the REReP 1.10 project.

Kosovo (territory under UN interim administration) does not have an environmental action plan that sets targets and defines key activities, and has not developed a legal programme or activity plan. An Environmental Protection and Sustainable Economic Development Strategy was completed in late 2004 but is still awaiting final approval. According to the Environmental Protection Law the strategy shall set goals and guidelines for environmental protection for a 10-year period. It shall include, at the very least, proposed policies on the use of natural resources, proposed basic elements and conditions for providing environmental protection and proposed priority tasks and projects. Although the

strategy is not intended to serve as a direct tool for the legal approximation process, it defines a number of legal goals and priorities.

The MESP is also required to submit an environmental protection programme every five years that shall include “measures to be taken or standards to be established” for the protection of water, soil, air, bio-diversity/nature, regulation of activities involving hazardous waste and dangerous chemicals, protection from noise and promotion of an integrated system of environmental protection. Such a programme has not been submitted yet.

With the exception of the republics of Serbia and Montenegro and the territory of Kosovo, all other countries and entities have a NEAP in place which determines the overall environmental policy activities. As concerns the approximation process, however, NEAPs have little meaning. Policy plans for legal approximation are far more concrete in this respect. However, only the former Yugoslav Republic of Macedonia has adopted such a document. In Albania and Croatia are in the drafting process with international project support.

With respect to official approximation strategies, the former Yugoslav Republic of Macedonia is far ahead of the rest of SEE. Besides an NPAL, the specific Action Plan for Environmental Legislation Harmonisation for the MEPP, which serves as explanatory manual for the transposition process, helps law drafting proceed in a more coherent manner.

The fact that all of SEE has some environmental policy plan/programme in place, however, does not give any clear indication as to common points in developing legal approximation strategies. While some countries and entities, such as BiH, Croatia and the former Yugoslav Republic of Macedonia, seem to determine their environmental approximation strategies by means of such policy papers, others seem mostly donor-driven (Albania, Kosovo and the Republic of Montenegro) in the sense that donors strongly influence the approximation process.

For instance, in Albania the MoE staff works with the contractors of assistance projects to agree on which area shall be prioritised for legal drafting. Virtually all areas have been identified as a priority for new legislation in the current NEAP. In Kosovo, the situation is similar. The draft environmental strategy lists a whole range of legal priorities but they are not ranked, and it is largely up to projects and donors to push for and influence the drafting of new legislation as can be seen in the next section.

Common aspects of prioritisation of environmental legislation in the region

Processes of prioritisation vary considerably around the region and there are few common aspects. Some countries such as BiH and Croatia work alongside already adopted and criteria-setting NEAPs, while others such as the republics of Montenegro and Serbia and the territory of Kosovo are still in the process of finalising NEAPs.

As to the process of prioritisation, which is the definition of and agreement on common criteria for setting priorities or the agreement on the priorities as such, it remains widely unclear for all of the countries and entities how this process is organised, who the major players are and who is in charge of coordination. Therefore this section mostly describes the criteria or priorities as such, next to the source documents.

Albania has a NEAP, but it does not contain any criteria for prioritising legislation. MoE staff states that the government follows EU advice given in the SAA process, but respective SAA reports do not give precise recommendations. The NEAP lists a wide range of activities (16), but does not prioritise these areas. The preparation of an NPAL, which is underway, is expected to set short-, medium- and long-term goals, but does not give any criteria to be used as guidance in the process of prioritisation. For the time being, no schedule for the legal harmonisation processes exists.

A CARDS project has made an attempt at prioritisation. Apart from focusing on methods rather than on areas (e.g. the legal hierarchy: first the framework, then daughter directives), the project has nevertheless identified some areas of special priority: SEA, hazardous waste and water legislation. The questionnaire returned by the MoE reveals that this perception is also shared by government officials, who consider horizontal matters such as public participation and environmental liability, along with air protection as additional priorities.

In **Bosnia and Herzegovina**, the drafting of environmental legislation is supposed to develop in accordance with the eight priorities set in the NEAP and the Midterm Development Strategy, which are: water resource management and wastewater treatment; sustainable development in rural areas; environmental management (information systems, integral planning and education); protection of biological and landscape diversity; waste and waste management; economy and sustainable development; public health; and demining. Another priority is the adoption of the State Environmental Protection Bill, which includes the establishment of a state environmental protection agency.

As far as **Croatia** is concerned, the main priority at the moment is apparently the amendment or revision of the Environmental Protection Act and its entire harmonisation with the EU *acquis communautaire*. Waste and wastewater are also claimed to be priority areas, although legislation needs to be drafted in all environmental sectors. Neither the existing NEAP nor the National Environmental Strategy gives a clear indication on environmental priorities, though. The NPAL, which is in the drafting stage, may soon provide priorities in more detail, as well as steps and stages for the future approximation process.

In the **former Yugoslav Republic of Macedonia**, the NEAP sets priorities in the following areas: air, water, biodiversity, forests, and institutional strengthening. As many legislative harmonisation activities have been accomplished in the past few years, only noise protection is left as a priority area, along with secondary legislation in all areas. However, these are rated as medium-level priority. As a next step, the preparation of a National Programme for Adoption of EU *Acquis Communautaire* shall be started under a CARDS project to achieve full compliance with the EC legislation.

The **Republic of Serbia** is one of two countries/entities without an adopted NEAP, but preparation is in its final stages. EU Council decision priorities have been included in the draft NEAP. These priorities include the adoption of a law on environmental protection, as well as strategies on air pollution, (waste) water and soil, and institution building. In addition, a strategy on sustainable development shall be developed, as well as, within two years, action plans on various environmental areas. The questionnaires filled in by a representative of the MSEP and the local team leader of YUGOLEX, however, narrowed the legal priorities down to water and air protection, waste management, chemicals and GMOs.

In the **Republic of Montenegro**, apart from the council decision mentioned above, which applies to both republics, in 2003 the government adopted an Agenda of Economic Reform for the period 2003-2006. The agenda includes objectives on environmental protection, such as the establishment of an efficient legal system, the improvement of economic instruments and financing mechanisms, an efficient pollution control and natural resources management and the sustainability of protected areas. The agenda further defines 10 priority areas, which are mostly horizontal issues, such as the harmonisation of horizontal legislation with EU standards, as well as the foundation of environmental bodies. There exists no NEAP and there are no plans to draft one.

Kosovo is awaiting the final approval of its draft Environmental Protection and Sustainable Development Strategy. The strategy lists nine legal

BOX 3

Elements of successful approximation strategies in the Republic of Serbia and the former Yugoslav Republic of Macedonia

- Full transparency throughout the legal drafting process, and involvement of previously identified key stakeholders and the public
- Collection of materials (registration of all domestic legislation, EU legislation, international agreements and other documents) and registration of materials and supplements
- Taking into account EU legislation, member states and legislation of other countries in transition, as well as current trends in legal theory
- Selection of materials to be translated
- Registration of all domestic bodies and their competences and capacities (human and technical resources) in the environmental field
- Analysis of EU directives (objectives, structures and best practice in EU member states)
- Gap analysis (comparative analysis, identification of problems, financial implications of new laws, institutional overlapping)
- Preparation of new laws (structure, identification of functions of actors); that comprise complete sectoral legislation from the very beginning, i.e. primary and secondary legislation
- Final stage of the drafting includes:
 - assessment of the institutional capacity for implementation of new legislation
 - assessment of financial needs for implementation
 - recommendations for a comprehensive programme for implementation
 - set up of an initial schedule for further international assistance required
- Discussion of proposals, recommendations on revision, and amendment of other laws and administrative and institutional changes
- Distribution of draft laws to ministries and authorities for official comments
- Public awareness campaign and ensurance of public participation

priorities, including air quality, water use, nature protection, waste management, GMO, and risk prevention according to the Seveso directives and nuclear safety. It also mentions the need for better implementation of existing legislation as well as institution building. But there is neither a specific set of criteria for prioritisation nor a timeframe, a result that has also been confirmed by the questionnaires, which classify all of these areas as high priority.

Legal drafting process

Constitutions of the respective countries and entities treat the importance of the right to environment quite differently. While in Republika Srpska, the former Yugoslav Republic of Macedonia, the Republic of Serbia and the Republic of Montenegro, the right to environment is explicitly accepted by their constitutions, in the Federation of Bosnia and Herzegovina only an adjacent right (right to health) is secured, and in other

countries, such as Albania and Croatia, environmental protection is not a right but an obligation to be performed by the state. The environment is not even mentioned in some constitutions, such as in Bosnia and Herzegovina and, consequently, in the Statute of the Brcko District. The governments shall account for the necessity to lay down the fundamental right to environment in their constitutions.

A characteristic element of the overall picture is the relative shortage of implementing regulations. There are some environmental laws with good intentions expressed through nice sounding principles or phrases and general provisions, which have never been implemented because the necessary detailed regulations — how to set standards, how to issue permits, the nature of reporting obligations, etc. — have not been enacted. Even more frequently, old sub-laws on technical details or administrative practices on procedures of enforcement prevail and implement general environmental requirements. This is typically a consequence of the government's limited interest in environmental issues

TABLE 3

Support requested for legal drafting process – Questionnaire responses

	Technical assistance on the spot	Questions and answers form	Written consultations	Urgent reply by phone/Internet
Albania	■		■	
FBiH	■			
Former Yugoslav Republic of Macedonia	■			
Republic of Montenegro	■		■	
Republic of Serbia	■	■	■	■
Kosovo (territory under UN interim administration) ⁶	■	■	■	

due to several other pressing problems (e.g. economic recession, unemployment and poverty).

A big problem is the lack of clear responsibilities for environmental implementation and enforcement (however, sometimes this directly stems from the traditional dilemma of whether to merge the environmental and water management administrations under one ministry), coupled with the fact that the regulatory or administrative capacities are often limited. This is even more the case in countries with several relatively autonomous regions (republics, entities, cantons, etc). Usually this leads to a situation where it is much harder to adopt harmonised legislation, due to the limited capacity of authorities, or unclear or complex institutional competences. For example, both in case of Serbia and Montenegro and BiH, the regulatory competences have been given to the entities or republics, and in the case of BiH even the cantonal level is involved in law making, which requires even more resources. It comes as no surprise then that there are additional difficulties in creating a harmonised legal system.

As concerns the internal approximation process of legislation, with the exception of Croatia and Republika Srpska all of the countries and entities provided some additional information.

When an environmental legal act is drafted in **Albania**, small working groups are usually established, in which the main directorates of the MoE are involved. Other ministries are involved or take the lead if they have the key competence in the respective sector. However, as there is no formal process for establishing working groups, they are created informally by the most qualified staff in the MoE and other line ministries, though there are very few inter-ministerial working group meetings. The law drafting process generally

involves technically educated staff, and laws are compared for compatibility with domestic and EC legislation. The Commission on Health and Environment in the Parliament reviews and prepares the law drafts developed and submitted by the MoE for adoption.

In **FBiH** working groups composed of local and international experts are in charge of the law drafting process under the supervision of the MPPE.

In the **former Yugoslav Republic of Macedonia** inter-ministerial working groups are established at the start of the legal harmonisation process in the MEPP. These working groups are the driving force behind the approximation process. Such a group usually consists of about 15 members. Within these large groups, smaller core working groups are organised with the MEPP. These core groups initiate and manage the activities, while wider working groups provide their input at longer intervals, normally once a month. Each working group has its own secretariat that organises meetings, agendas and minutes, and facilitates communication between core and wider group members. The secretariat also keeps records of the meetings' documents. Newly drafted legislation is always checked for compliance with EC and domestic laws.

In the **Republic of Montenegro**, whenever an environmental legal instrument is drafted within the MEPP, small working groups are established consisting of internal staff and usually a few external domestic specialists. Often working groups also include representatives of NGOs and other ministries, as well as international experts. New legislation being prepared is compared regularly with EU legislation and checked for consistency with domestic legislation. A statement of compatibility comparing the drafted provisions with the relevant EU norms has to be submitted together with the draft to the Assembly.

In the **Republic of Serbia** legal drafting is done by working groups involving domestic and often international experts. A working group is coordinated by the ministry in charge, most often the MSEP. If possible it consists of representatives of other ministries, the Autonomous Province of Vojvodina and local authorities. Nevertheless working groups are rather small due to the workload and there is only a limited number of staff involved in the drafting process. For instance, the working group for the drafting of new legislation on chemicals, which is a vast and complex issue, consists of only three permanent members from three ministries. Other relevant stakeholders are said to be involved through roundtable discussions, and law drafts are submitted to the interested public before adoption. Draft laws are checked for compliance with EC and domestic legislation.

In **Kosovo**, which remains under UN administration, laws are almost entirely prepared with international donors' support. Since local staff has little experience in drafting laws it is mainly international experts drafting laws. There exist no functioning legal drafting working groups and no mechanism to establish them. Once a draft has been agreed between the competent staff of the MESP and the international experts, it is submitted to the Assembly for parliamentary readings. Each law and sub-law adopted by the Kosovo Assembly needs to be promulgated by an UNMIK regulation signed by the Special Representative of the Secretary-General in order to enter into force, and UNMIK reserves the right to adopt regulations in certain areas defined in the Constitutional Framework.

Members of the Assembly, which are not the addressees of legal drafting assistance projects, often change the drafts considerably, sometimes so much that "in practice it is impossible to implement it [the law] and at the same time it is in conflict with EU law."⁵

The establishment of legal drafting working groups is common throughout SEE, with the exception of Kosovo. However, while such working groups are organised in a very professional manner in the former Yugoslav Republic of Macedonia and — to a lesser extent — also in the republics of Montenegro and Serbia, they meet rather informally in Albania. NGOs are said to be involved in the legal drafting process, and drafting results are made public before a law is adopted.

Representatives from the former Yugoslav Republic of Macedonia and the Republic of Serbia were particularly good at providing examples and listing aspects of successful approximation processes. Box 2 summarises the elements of the strategies in both places.

All of the staff at environmental ministries who answered the author's questionnaire felt that the participation of international experts in the drafting process was very important. Table 3 summarises the responses received.

Generally, the approach to bringing in international legal and technical experts from EU member states for legal drafting assistance is considered most beneficial for the drafting process in SEE. Most SEE representatives asked for those experts to work closely together with local staff and elaborate jointly legal drafts rather than commenting on legal drafts developed by the ministerial staff alone.

The cooperation on environmental law development in SEE on a regional level is still in its initial stages. Cooperation is understood here under three aspects:

- coordination of law drafting activities on a regional level;
- transfer of lessons learned and good practices among SEE countries and entities; and
- transfer of lessons learned and good practices from other regions (EU member states or candidates).

The MoE staff interviewed in Albania stated that almost no legal drafting cooperation with colleagues in other parts of SEE existed. There was an exchange of information with staff of the Croatian MEPPPC with respect to the establishment of an environmental fund system (which is not addressed by the environmental *acquis communautaire*).

The **former Yugoslav Republic of Macedonia** claims that it "carries out regional cooperation as a key segment of its international political activity, through permanent strengthening of the cross-border cooperation and active participation in regional initiatives and activities under the Stability Pact."⁷ However, no concrete example of legal drafting cooperation was given by the MEPP. On the other hand, as concerns the use of laws from other countries as useful models or examples, a number of laws and countries were named. The drafting of domestic laws benefited from legal drafting texts from both "old" EU member states such as Germany, Denmark, Finland, "new" member states like the Czech Republic, Slovenia and Poland, and the candidate country of Bulgaria. As concerns SEE, law texts from Croatia have also been taken into consideration. Even laws of non-EU countries such as Norway and Iceland have been analysed.

In the **Republic of Montenegro** legal drafting cooperation of the MEPP with other EU member states or SEE is also low. Staff of the MEPP stated that they benefit from examples of laws from other countries which can be found on the Internet. Due to language restrictions, however, legal texts from other former Yugoslav countries are the main models.

As concerns the **Republic of Serbia**, legal drafting cooperation with other SEE countries has been limited. During the legal harmonisation process some laws of EU member states and especially those from the new member states of the Czech Republic, Slovenia and Slovakia have been taken into consideration as well as

texts from Bulgaria and Romania. Within the YUGOLEX project, IPPC legal acts from Estonia, Hungary and Latvia have been translated into Serbian, as well as EIA legislation from Canada, Germany, Hungary and Portugal.

The MESP in **Kosovo** reported that it made use of examples from its neighbours in SEE as well as EU member states when drafting new legislation. The draft text of the waste law was based, for instance, on corresponding legislation from Bulgaria, Ireland, the Netherlands and the UK.

There was no information from **BiH** and its entities nor from **Croatia** on the existence of systematised legal drafting cooperation with neighbouring countries, however, under the REReP programme, there were certain sporadic but not systematic instances of cooperation in Croatia with experts of new member states.

In states where competences are strictly limited at the federal or union level, the entities' or republics' jurisdictions are the main operative authorities for implementing the environmental protection framework. Moreover, due to a lack of will to cooperate, these laws often are developed separately. Considering that geographical distances are quite small (nearly every environmental issue is a transboundary one), these countries and entities must have as much harmony between their environmental laws as possible in order to work together effectively.

In short, joint or coordinated legal drafting activities rarely take place, and when they do it is on an ad-hoc basis. In this sense, the available regional expertise and knowledge in SEE could be put to much better use. This comes as a surprise since virtually all of SEE faces the same starting position and problems and want to reach the same goals, i.e. legal approximation to the *acquis communautaire*. Politics are the biggest barrier to the regular exchange of information and coordinated drafting activities, which would allow the countries and entities to benefit from each other's activities. The republics of Montenegro and Serbia both identified political reasons for the lack of direct cooperation between their environmental ministries.

Another aspect is that all large EU funded projects are focusing only on "their" beneficiary countries and entities. There is hardly any exchange of information between the projects, even though within the technical assistance projects the majority of primary law drafts have been prepared. Even the coordination between environmental projects in one place are often badly coordinated, as was reported from BiH. As a consequence, inconsistent legal drafts are sometimes produced under the leadership of different projects and donors.

A positive example is the drafting of several framework laws in the former Yugoslav Republic of Macedonia. Although the drafting took place within different projects, the activities were coordinated by

the MEPP so well that all of the drafts are interrelated, i.e. the final laws make legal references to one another.

There are two positive examples within SEE where projects are trying to stimulate legal drafting dialogue. Within the YUGOLEX project, both the republics of Serbia (in phase I) and Montenegro (in phase II) have been supported with respect to the drafting of horizontal legislation, including IPPC. Based on the experience in Serbia and the drafts elaborated there, similar drafts will be produced in Montenegro, partly by the same experts. This may not only lead to coherent laws in the region (as well as between these republics), but it is also expected that drafting cooperation between both entities will be promoted.

Most cooperation, though, has been taking place within the REReP 1.3 project. Many representatives from SEE environmental ministries who participated in a 2005 study visit on chemicals legislation in Slovenia organised by REC highly appreciated the provision of information and learning from experience from Slovenia on the management and control system of chemicals. Under REReP 1.3, similar workshops with participants from almost all of SEE took place on the approximation of the IPPC Directive in SEE Countries in April 2004 and the approximation of the Water Framework Directive in October 2004.

These were the only two examples reported on the active transfer of lessons learned and good practices among SEE countries and entities. More of them may exist, but in general the attempts at cooperation are in a nascent stage, including even the provision of basic information.

With respect to the transfer of lessons and experience from other regions (i.e. EU member states and candidate countries) the situation is different. Almost all of SEE has made use of laws from different countries as examples for domestic draft laws. However, some representatives of SEE stated that the language barrier remained, i.e. foreign laws should at least be available in English, and even then only those staff members who spoke proper English could work with the texts.

ENDNOTES

- 1 "Ministry of environment" refers to ministries which are the line ministries for the protection of the environment.
- 2 See From Regional Approach to the Stabilisation and Association process at http://europa.eu.int/comm/external_relations/see/actions/sap.htm.
- 3 Bosnia and Herzegovina, Country Report, Stabilisation and Association Report 2004, Commission Staff working paper, COM (2004)205.
- 4 See latest: http://europa.eu.int/comm/external_relations/see/news/2005/ip05_421.htm.
- 5 Quote from the head of the Environmental Policies Division in the MESP.
- 6 Of the four questionnaires that have been returned from Kosovo, three had an almost identical answers to this question.
- 7 Answers to the EU Questionnaire, page 41.

Main Findings

The achievements of South Eastern Europe (SEE) in the environmental law approximation process differ from country to country. Generally, one can say that the approximation progress, at least as it relates to the quantity of new laws that are supposedly aligned with the *acquis*, reflects the progress of the overall Stabilisation and Association Process. While countries such as Croatia (already a candidate country) and the former Yugoslav Republic of Macedonia (an applicant for candidate status) are relatively advanced in environmental law making, states like Albania and Bosnia and Herzegovina have only begun the approximation process. Progress in the Republic of Serbia proceeds at a different pace than in the Republic of Montenegro, mainly as a consequence of differing human capacities for environmental law drafting.

Horizontal legislation

Horizontal legislation is concerned with environmental legislation on various matters which cut across different environmental subject areas, as opposed to regulations which apply to a specific sector, e.g. water or air. Rather than to regulate a specific area, these items of legislation are more procedural. They provide for methods and mechanisms aimed at improving decision making and legislative development and implementation. As described above, according to the EU *acquis communautaire*, the following topics are to be understood as horizontal:

- environmental impact assessment (EIA);
- strategic environmental assessment (SEA);
- access to environmental information;
- public participation (in decision-making processes and in plans and programmes); and
- environmental liability.

EIA and SEA

In South Eastern Europe, horizontal issues are most commonly integrated into an environmental framework act, and sometimes as an element of a “non-environmental” law (e.g. laws regulating zoning and con-

struction activities or laws on civil liability) or as a stand-alone piece of legislation (e.g. EIA or SEA laws). Most often, such laws are not yet in harmony with EU legislation with respect to procedural elements, conditions of public participation, comparable lists of installations and activities, and the exact legal consequences of the procedures among other things.

Nevertheless, there have been significant improvements, in particular in EIA provisions drafted during the past two to three years. Fewer SEA laws have been drafted.

In **Albania** the new Law on Environmental Protection of 2002 contains the legal basis for the establishment of the EIA and SEA instruments in several articles. The country’s Law on Environmental Impact Assessment, which regulates procedural details of the process, was adopted in early 2003. However, a number of procedural details still have to be regulated by subsidiary legislation and SEA is not yet enforceable due to the lack of such provisions.

The situation in the **Federation of Bosnia of Herzegovina (FBiH)** as well as **Republica Srpska** is quite similar: The new laws on environmental protection, adopted by the entities in 2002 and 2003 respectively, contain basic provisions for both EIA and SEA. However, several subsidiary laws are required to apply the provisions. For example, a by-law is needed to define which activities are subject to EIA and SEA. The drafting of this specific regulation has been completed in both FBiH and Republika Srpska.

In **Croatia**, EIA is regulated in an ordinance on EIA which was last amended in 2004. The ordinance is largely in line with the basic requirements of the European EIA Directive. SEA is only partly incorporated. However, the government plans to repeal the main legal environmental act in Croatia, the Environmental Protection Act, by 2006. That law dates from 1994 and has been amended several times since. In the context of this revision the legal framework for EIA and SEA shall be made fully compliant with EC law.

In the **former Yugoslav Republic of Macedonia** the new Law on Environment, adopted in 2005, contains a range of framework provisions on both EIA and SEA. The provisions fully comply with EC legislation but need subsidiary laws to be applicable. These sub-

sidiary provisions were in an advanced drafting stage at the time of this research.

In the **Republic of Serbia**, two primary but separate horizontal laws, the Law on EIA and the Law on SEA, were promulgated in 2004 in addition to the new Law on Environmental Protection. Both laws regulate in detail the procedures for impact assessments of project plans and programmes and follow the approach and requirements of directives 97/11/EC and 2001/42/EC.

In the **Republic of Montenegro**, EIA and SEA framework provisions are laid down in the Constitution. Further details on EIA are regulated in an EIA Regulation of 1997. There are also drafts on EIA and SEA laws similar to those created in Serbia, but they have not yet been adopted.

In **Kosovo**, which is under interim UN administration, the new Environmental Protection Law of 2002 introduced the concept of EIA and SEA. As concerns the former, two administrative instructions were issued in 2004 to make it applicable. Detailed rules for SEA have not yet been introduced.

Access to information and public participation

In the legislation of SEE countries, access to information and to public participation are usually mentioned as principles in framework laws. Sometimes access to information rules are spelled out in more detail, but without the necessary legal guarantees. Enforcement and implementation are elaborated even less frequently in relation to public participation rights. Therefore, in most SEE countries, it remains questionable if participatory rights have a mere declaratory meaning or if they can be enforced.

Albania ratified the Aarhus Convention in 2001 but is not yet in a position to implement it. Although no further rules have been defined, the Law on Environmental Protection stipulates that:

the Ministry of Environment (MoE) defines the rules and procedures for the publication and provision of the environmental information by the environmental protection bodies,

However, the Law Concerning the Right to Access to Official Documents of 1999 regulates the access of persons to official documents kept by public authorities.

With respect to public participation in environmental decision-making processes, the Law on Environmental Protection requires that decision-making bodies ensure the participation of the public and non-profit organisations during the decision-making process. However, the MoE still must define the rules and procedures that ensure this participation.

In **FBiH**, the Law on Environmental Protection is based on the principle that environmental issues are

best handled with the participation of all citizens and that “each individual and organisation shall have appropriate access to information concerning the environment that is held by public authorities.” The public shall have “access to information within the scope of the relevant provisions” and the “possibility to participate in decision-making and have access to justice in environmental matters.” However, no procedural details on either access to information or participatory matters have yet been established. The situation in **Republika Srpska** is virtually identical. The federation is not a signatory to the Aarhus Convention.

Croatia has signed the Aarhus Convention and intends to ratify it. With the Act on Right to Access to Information, adopted in 2003, Croatia took steps to adjust its legislation to EU requirements. Regarding public participation, Croatia’s EIA ordinance contains detailed provisions as a constituent part of its procedure, but there is no general legal regime in place on public participation in permitting processes. A new environmental protection act slated for drafting by 2006 shall regulate access to justice in environmental issues.

In the **former Yugoslav Republic of Macedonia** almost all horizontal issues are regulated in the Environmental Law promulgated in 2005. The law includes detailed provisions on access to environmental information as well as public participation in environmental decision making. In order to be fully applicable, though, a number of procedural steps need to be established. Nevertheless, the legal provisions of this country are probably the most advanced in the region in the area of horizontal law. Some laws (e.g. the Law on Spatial and Urban Planning) contain specific opportunities for public participation.

As indicated above, in the **Republic of Serbia** procedural provisions for public participation are in place for EIA and SEA. But aside from this, participation in decision-making processes is regulated in just two framework provisions of the new Law on Environmental Protection of 2000. Two other framework provisions deal with passive and active access to information. Procedural details still have to be developed and adopted.

The right to access to information became an issue in the **Republic of Montenegro** during 2002 in relation to three projects, none of which was related to the environment. The implementation of two projects within REReP 2.2 focusing on the implementation of the Aarhus Convention led to an increased awareness of the relevance of access to information about the environment. Subsequently, a draft law on free access to information was developed to establish a legal framework for access to information, including environmental information. The draft defines what information should be accessible to the public, who is responsible for providing it, and by what procedures. However, the law is not yet in force.

TABLE 1

Horizontal legislation approximation achievements

HORIZONTAL LAW FIELDS	Albania	FBiH	Republika Srpska	Croatia	FYROM*	Republic of Serbia	Republic of Montenegro	Kosovo (UNMIK)
ENVIRONMENTAL IMPACT ASSESSMENT	Largely (2003)	Partly (2003)	Partly (2002)	Largely (2004)	Largely (2005)	Fully (2004)	Partly (1997)	Largely (2004)
STRATEGIC ENVIRONMENTAL ASSESSMENT	Barely (2002)	Partly (2003)	Partly (2002)	Partly (2004)	Largely (2005)	Fully (2004)	Barely (1996)	Barely (2002)
PUBLIC PARTICIPATION	Not yet	Barely (2003)	Barely (2002)	Partly (2004)	Largely (2005)	Partly (2004)	Not yet	Barely (2002)
ACCESS TO INFORMATION	Barely (1999)	Barely (2003)	Barely (2003)	Largely (2003)	Largely (2005)	Barely (2004)	Not yet	Not yet
ENVIRONMENTAL LIABILITY	Not yet	Partly (2003)	Largely (2004)	Partly (2004)	Partly (2005)	Largely (2004)	Partly (1996)	Not yet

* Former Yugoslav Republic of Macedonia

The environmental legislation foresees the participation of NGOs in environmental decision making but does not regulate how this may or shall be done.

In **Kosovo**, access to environmental information has not yet been regulated. Public participation has been established only as a right within EIAs and the setting of spatial plans, but procedural provisions have not been clarified. Other environmental permitting procedures do not contain public participation provisions.

Environmental liability

In their respective environmental protection laws, **Bosnia and Herzegovina**, **Croatia**, the **former Yugoslav Republic of Macedonia**, and **Serbia and Montenegro** have introduced framework provisions for the establishment of liability systems for environmental damage. The legal quality and hence, applicability, of these provisions vary, but all SEE states lack norms and clear procedures on how to enforce liability. However, detailed regulation of environmental liability will not be necessary once general civil legal enforcement systems (civil codes and civil procedure codes) are adequately developed. However, this question is out of the scope of the present research. **Albania** and **Kosovo** have only general principles of environmental liability in their respective environmental framework laws.

The findings are summarised in Table 1 which indicates when (year) and to what extent — fully, largely, partly, barely, not yet — primary pieces of legislation entered into force.

Water quality

The main common finding concerning water protection laws in SEE was that the legal competence in this field is often split among multiple ministries. In most SEE states, ministries for agriculture, forestry and water management are not only in charge of water supply but also water-protection matters. But it is often the case that other ministries also have competences in this area, sometimes overlapping ones. In every country or entity studied, municipalities had certain competences in local water management; the actual tasks involved were usually shared with public enterprises established for this purpose.

Though most of the countries and entities have developed new framework water laws in the past few years, some important areas — including how water use is defined and how to establish functioning permitting and control systems — are unregulated. Regulations are needed for realistic but protective discharge thresholds and collection of wastewater discharge fees.

In **Albania** the Ministry of Environment is the main body responsible for water protection. It is responsible for setting water quality standards and water emission limits but three other ministries are also entrusted with competences in the field of water management and protection. The various laws on water are insufficiently linked. A law concerning the treatment of polluted waters was adopted in 2003, but no quality standards are in place for water resources and few technical standards and discharge parameters exist. Although a water strategy was adopted in late 2004, a national water plan is not yet in place.

FBiH and **Republika of Srpska**, in 2003 and 2002 respectively, adopted new laws on water protection. However, the current legal framework is confusing because the 1998 water laws remain in force and the relationship between these laws is unclear. Consequently, as part of the state's and the entities' commitments to reorganise the water sector and adjust fully to the EU Water Framework Directive, a new water law is being drafted at the federal level and was said to be nearly ready. The new water law shall clarify the division of relevant responsibilities and be adjusted fully to EC law. Furthermore, drafts of four subsidiary regulations are in process at the federal level. They deal with the protection of water against pollution by nitrates, the establishment of water protection areas, sanitary zones and water permitting.

For the time being, the entities' ministries of physical planning, civil engineering and ecology, and of physical planning and environment are in charge of developing water protection strategies and by-laws.

In **Croatia** the situation had not changed much since the Phase 1 report was published. The main responsibility for water management falls to the Ministry of Agriculture, Forestry and Water Management, but the Ministry of Environmental Protection, Physical Planning and Construction (MEPPPC) determines water policy and partially regulates municipal water utilities. One hindrance to implementation concerns the fact that important information is possessed by a utility called Croatian Waters, which does not want to share its data. The main legal instruments remain the Water Act and the Water Management Financing Act, both from 1995. There is no information on water legislation that has been passed since then. The development of new or amended water legislation in Croatia was under way with the assistance of the 2003 project Approximation of Water Management Legislation with EU Water Acquis, an initiative under the Community Assistance for Reconstruction, Development and Stabilisation (CARDS).

In the **former Yugoslav Republic of Macedonia**, a new Law on Waters drafted under the auspices of the Ministry of Environment and Physical Planning (MEPP) and with support from a CARDS project is not yet in force. It would establish the MEPP as sole competent authority for planning, management, authorisation and also drafting of water-related regulations. At present five ministries share responsibilities in the water sector. The existing Law on Waters is of a very general and descriptive nature without precise regulations. The new draft Law on Waters is a framework law with specific focus on water use, protection from pollution and pollution control which would need numerous sub-laws to become effective. The draft law is linked with the other environmental laws adopted most recently in the country.

The competence for water management in the **Republic of Serbia** is split between three ministries. The Law on Waters of 1996 remains the main legal basis for the protection, use and management of waters, though at present a new law on waters complying with EU legislation is being drafted by the Directorate for Water Management within the Ministry for Agriculture and with support from the European Agency for Reconstruction (EAR). The existing law is supplemented by a number of by-laws — mainly rule-books — which address issues such as monitoring of water quality, and permitting of water usage and hazardous substances in water.

Water protection in the **Republic of Montenegro** is mainly the competence of the Ministry of Agriculture, Forestry and Water Management and to a lesser extent the MEPP. Water management problems are similar to those in Serbia. No legislation has been enacted on water protection since 2000 nor is there a specific strategy on water protection or water management. The drafting of new legislation, based on the requirements of the EU acquis, is seen as a legal priority by the ministry.

In **Kosovo**, the management of all water resources belongs to the Ministry of Environment and Spatial Planning (MESP). A new water law, drafted with the assistance of the United States Agency for International Development (USAID) and the Danish International Development Agency (DANIDA), entered into force in 2004. The law introduces the instrument of water permits for activities such as water abstraction and wastewater discharge but it does not stipulate any emission limit, thresholds or water quality parameters. Planning tools such as strategic plans for water and water management plans were introduced and the government is obliged to adopt a programme of measures to fulfil the plans. However, the law is partly unclear and inconsistent and requires sub-laws to become applicable.

Air quality

Air protection at the EU level is regulated by means of air quality measures, emission standards (mainly to be implemented through permit conditions and monitoring), and direct regulation of required technology within the regime of integrated pollution prevention and control (IPPC). Air quality legislation in SEE has some common characteristics from country to country. Generally, air protection falls under the competence of the environmental ministries, though sometimes health aspects of air quality are delegated to ministries of health. With the exception of the republics in Serbia and Montenegro, all countries and entities have enacted new air protection laws since 2002. However, these laws are framework laws which require secondary legislation, especially in regard to emission thresholds, air-quality values and

details related to permitting and monitoring procedures. Existing emission thresholds and air quality standards are either stipulated in a general way or are based on values set during the 1990s or even 1980s.

In **Albania**, the Law on Protection from Air Pollution of 2002, the key legal instrument on air protection, entrusts the Ministry of Health and the Ministry of Environment to determine air quality norms. Updated air quality standards were set in 2003 but some standards from 1974 are still in place. A comprehensive new set of emission norms was issued through a decision of the Council of Ministers in 2002 and again in 2005. However, the air protection law establishes only very vague and general obligations for operators. The law also lacks permitting clauses which would make it applicable.

In **Bosnia and Herzegovina** both entities adopted laws on air protection (in **Republika Srpska** in 2002, in **FBiH** in 2003). Both laws are framework laws with a broad scope and are based on the general requirements of the EC Air Quality Directive. Air quality standards and emission limit values, as well as details on monitoring and public information, as well as inspections and penalties for the infringement of emission limits are supposed to be regulated through by-laws or administrative measures yet to be developed.

Croatia has put a lot of effort into the alignment of its air protection legislation with that of the EU and a significant amount of legislation has been passed after 2002. The Air Protection Act adopted in December 2004 provides the basic framework for the implementation of air protection policy. It foresees the adoption of a plan for protection and improvement of air quality at the national level by December 2005 and at county level by June 2006. Much of the needed secondary legislation — which now focuses on limits of individual pollutants from vehicle and fuel-related air emissions — is to be adopted before March 2006.

In the **former Yugoslav Republic of Macedonia** the new Law on Ambient Air Quality was drafted with international support and entered into force in 2004. It is fully compliant with the EC Air Quality Directive and provides the legal basis for the adoption of subsequent ambient air quality standards and emission limit values from stationary as well as mobile sources. A draft decree on values, margins of tolerance and thresholds was prepared by the MEPP but the decree has not yet been adopted. Secondary legislation was to be prepared with support under the CARDS 2004 programme. The provisions of the Law on Ambient Air Quality and those of the Environmental Law are linked carefully to an integrated permitting system.

As stated above, the republics in Serbia and Montenegro have few new laws related to air. In the **Republic of Serbia** decrees on the Defining Air Quality Control Programme have been issued annually since 2000.

The new Law on Environment includes two articles referring to general principles and activities for air protection. The law entrusts the government to adopt a specific law for air protection; such a law is in the drafting process. The development and adoption of an air pollution strategy is a priority of the Serbian government.

In the **Republic of Montenegro** a draft law on ambient air quality aligned with the EC Air Quality Directive was elaborated in 2003 with international support under the REReP 1.3 project. However, the draft has not yet been adopted. The existing Law on the Protection of the Air from Pollution dates from Yugoslav times. The Environmental Law of 1996 also contains a number of general air protection clauses but is not linked with the old air protection law.

A new Law on Air Protection was adopted in **Kosovo** in 2004. The law does not establish emission or air quality standards but authorises the government to establish monitoring details and standards of air quality and atmospheric emissions based on EU standards. Subsidiary legislation is not yet in place.

Nature protection

Since the Phase 1 report was prepared, there has been considerable legal progress in most SEE countries and entities on nature protection legislation. Whilst Croatia, former Yugoslav Republic of Macedonia, the Federation of Bosnia and Herzegovina and Republika Srpska all adopted new nature protection laws, this legislation is in the drafting stage in Kosovo and the Republic of Serbia.

Albania enacted a sector law on protected areas, and Republic of Montenegro stands alone for not having adopted new legislation in this field. But across the region, regulations need to be adjusted and subsidiary laws need to be adopted in order to align present legislation with the two key instruments of the acquis, the Habitat Directive and the Birds Directive. In most SEE countries, protected areas are managed by public institutions under the supervision of the competent ministry.

In **Albania** the new Law on Environmental Protection contains a number of nature-protection provisions, including ones on soil protection, protection of the humus layer and protection of biodiversity. The Law on Protected Areas promulgated in 2002 provides for the declaration, preservation, administration, management and usage of protected areas and their natural and biological resources. The law was not drafted in conformity with EC legislation, however. It is supplemented by the Decision Concerning the Declaration of Nature's Monuments in Albania as Protected Zones of December 2002.

In **Bosnia and Herzegovina** both entities recently passed laws on nature protection: in 2002 in **Republika Srpska** and in 2003 in **FBiH**. In addition, new laws

on forests entered into force (in RS in 2003, in the FBiH in 2002). The management of protected areas suffers from the unclear diversion of competences between the ministries in charge of environmental matters and those on agriculture, water management and forestry.

The situation in **Croatia** is unique insofar as the competences on nature protection were shifted from the MEPPC to the Ministry of Culture in 2003. A new Nature Protection Act entered into force in 2003. With more than 300 articles, the act regulates physical planning, landscape protection, the establishment of an ecological network of natural areas, protection of species, genetic diversity, GMOs, the designation and management of protected areas and natural values, etc. At least 15 additional ordinances and regulations are in the legal drafting stage at present.

Nature preservation in the **former Yugoslav Republic of Macedonia** is under the exclusive competence of the MEPP. The country adopted its new Law on Nature Protection in 2004. The law establishes the legal foundation for a comprehensive regime on nature protection consisting of general measures, measures to protect biodiversity (species, habitats and ecosystems) and designated protected areas. Moreover, it provides for new rules on monitoring, record-keeping, planning, financing and supervision of nature protection activities. The Law on Nature Protection is *lex specialis* to the Law on Environment, i.e. the latter is applicable as concerns horizontal issues such as impact assessments and access to information. Nature protection has been regulated in compliance with EU requirements but some by-laws need to be adopted.

In the **Republic of Serbia** the Ministry of Science and Environmental Protection (MSEP) oversees nature protection. The new Law on Environmental Protection needs to be followed by a special law and other regulations for the protection of nature. At present a law on nature protection is in the legal drafting process and was expected to be finalised in 2006. For the time being the only primary legislation in force in this field is the Law on National Parks of 1993, which regulates the protection and management of areas of special significance. Laws on hunting and fishing also contain important provisions regarding nature conservation. The MESP considers alignment with the EU's Habitat and Birds directives one of the most urgent legal challenges in Serbia's environmental legislation.

In the **Republic of Montenegro** the MEPP is the main authority for nature protection policy and legislation, though its responsibilities with respect to protected areas overlap partly with those of the Ministry of Agriculture, Forestry and Water Management. The existing Law on the Protection of Nature dates from 1982. It is complemented by other sectoral legislation enacted in the 1990s or even before. The MEPP emphasised

the need for a new comprehensive legal framework on nature protection aligned with EC legislation.

In **Kosovo** it is unclear which authority is mainly responsible for nature protection and protection of biodiversity. The new Environmental Protection Law states that special legal protection acts for areas with valuable natural features are to be drafted but it is unknown who has the competence to initiate the drafting. According to the MESP, the drafting of a separate law on nature protection was completed with technical assistance financed by the European Centre for Minority Issues (ECMI) in 2004, but this law has not been signed by the SRSG, and therefore has not entered into force. For the time being the main applicable law on nature protection is the Law on Protection and Development of Natural Values of 1988.

Waste management

Waste legislation remains one of the biggest problem areas in the SEE region. This field of legislation suffers mostly a scarcity of appropriate rules. A general problem is that laws cover the different aspects of waste management in a fragmentary way. Some countries and entities have adopted new waste-management framework laws in recent years (i.e., Bosnia and Herzegovina, Republika Srpska, Croatia, the former Yugoslav Republic of Macedonia). Elsewhere in SEE the laws are in the drafting process (Serbia, Kosovo) and some places lack the legal prerequisites for a functioning waste-management system (Albania, Republic of Montenegro). Even the most advanced countries still need a large number of supplementary legal acts for the waste-management system to work and comply with EC requirements.

In **Albania** the MoE is responsible for the drafting of waste-management legislation and for the enforcement of waste-related rules. However, the Ministry of Industry and Energy is the competent governmental institution in charge of waste management. There exists no framework law on municipal or hazardous waste. The Law on Environmental Treatment of Solid Waste, which entered into force in 2003, stipulates the principles for waste management but spells out few of the legal obligations of waste producers. A decision On the Albanian Catalogue of Waste Classification was adopted by the Council of Ministers in January 2005. With support of a CARDS project, new legislation on hazardous waste was expected to be drafted in 2005.

Except for the management of medical and pharmaceutical waste, which is in the competence of the Ministry of Health, responsibility for waste management in FBiH and in **Republika Srpska** falls under the Ministry of Physical Planning and Environment (MPPE) and Ministry Physical Planning, Civil Engineering and

Ecology (MPPCEE). After the approval of new laws on waste management in Republika Srpska in 2002 and in FBiH in 2003 both entities had a proper legal framework in place, although this needs substantial secondary legislation and also requires significant efforts toward harmonisation with the relevant EC waste directives. Several drafting activities of secondary legislation in both entities are under way. Both entities adopted a solid waste-management strategy, revised in 2000-2001, which is currently being implemented with the support of a CARDS project and the World Bank.

In **Croatia** the MEPPPC is responsible for the development of national waste-management concepts and legislation. The Ministry of Health and Social Affairs manages medical waste and the Ministry of Economy, Labour and Entrepreneurship issues opinions in the course of the permitting process. A new waste act was promulgated in 2004. The law has been complemented by ordinances containing a catalogue of waste, a list of hazardous waste and a list of natural persons with the right to export non-hazardous waste. Pursuant to the waste act, a waste-management strategy and a waste-management plan at the state level, as well as waste-management plans at county and municipal levels need to be adopted. An integrated waste-management strategy was under development by competent authorities. The EU-funded project Strategy for EU Environmental Law Approximation focuses on further alignment of waste-management legislation with the *acquis*.

The MEPP is the competent authority on waste management in the **former Yugoslav Republic of Macedonia**. The country's current Law on Waste Management entered into force in 2004. It serves as framework legislation for waste management and follows the principles of European waste policy. It incorporates the definitions stipulated in the relevant EC directives. The government is obliged to develop a 12-year waste-management strategy. A number of subsidiary legal acts still need to be adopted to make the new waste-management regime applicable. Supplementary regulations on hazardous waste, waste-management control, waste oils and polychlorinated biphenyls and polychlorinated terphenyls (PCBs/PCTs) have been developed with support from an EU project, but none of these instruments has been passed.

In the **Republic of Serbia**, the MSEP oversees the development of an overall waste-management policy and the elaboration of waste legislation in compliance with EC legislation. The first national strategy for waste management was adopted by the Serbian government in 2003 followed by a feasibility study on hazardous waste. The existing legal regime on waste management which dates back to the 1980s and 1990s is made up of more than 40 laws and rulebooks and is considered fragmented and largely inconsistent with EU legisla-

tion. In late 2004, the MSEP started drafting a new waste framework law.

In 2004, the **Republic of Montenegro** adopted its National Waste-Management Policy, defining an integrated and sustainable waste management for Montenegro. A National Waste-Management Strategy was published in January 2005. There was no primary waste law in force in Montenegro during the research of this report. A few general provisions in the Environmental Law of 1996 deal with sound waste-management principles. A new waste framework law had been drafted and was awaiting parliamentary approval. The proposal was designed to follow the EC Waste Framework Directive (75/442/EC).

With respect to the transboundary movement of hazardous waste, regulations at the state-union level are relatively well-elaborated and based on the provisions of the Basel Convention, to which Serbia and Montenegro is a party.

In **Kosovo**, the MESP considers itself the competent authority for waste management. A new comprehensive Law on Waste Management has been drafted by the MESP with international assistance. The law has been approved by the Assembly but not signed by the SRSG, and hence has not entered into force. A by-law on hazardous materials and waste has also been drafted that is to be adopted once the new waste law comes into force. At present the Yugoslav Law on Collection, Accumulation and Waste Storage of 1994, which addresses the collection and handling of urban waste, remains applicable.

Industrial pollution and risk management

While the permitting of industrial activities is widely addressed in SEE, industrial risks have received very little attention in the region. Hence, most states have little to no legislation on the management and prevention of industrial risks. In most of the region, it is still questionable to what extent permitting systems comply with the IPPC Directive. Only two governments, those of former Yugoslav Republic of Macedonia and the Republic of Serbia, have applied an integrative permitting approach for industrial operators and integrated the IPPC concept into their legislation.

In **Albania** the Law on Environmental Protection (LEP) establishes very basic requirements for a permitting system, but without the integrative approach of the IPPC Directive. The permitting system applies to industrial operators as well as other activities having an impact on the environment. Regarding industrial risk prevention, the LEP requires persons who use hazardous substances in processes to establish a system of

accident prevention and control, but the law does not stipulate further details. Four line ministries are required to jointly develop concrete norms, including those on criteria for the establishment of an accident prevention and control system. It was not known if steps on the elaboration of these norms were under way.

FBiH and Republika Srpska do not yet have an integrated permitting system in line with the IPPC Directive. A number of government bodies are involved in the granting of licenses. Moreover, conflicts mar the relevant licensing legislation. FBiH's cantons see themselves as the competent licensing bodies while the Ministry of Physical Planning considers itself the central and exclusive licensing body. In Republika Srpska, municipalities license smaller installations. Neither entity has transposed into their laws the requirements of the Seveso Directive concerning industrial risk prevention.

Croatia has not yet implemented the IPPC or Seveso directives. However, according to the EU project Strategy for EU Environmental Law Approximation, a sophisticated system of accident hazard control does exist. The MEPPPC intends to incorporate the Seveso Directive's requirements into the new environmental protection act, to be adopted in 2006. A new environmental protection contingency plan is also slated for adoption.

The **former Yugoslav Republic of Macedonia** has transposed the IPPC Directive into domestic legislation in the Law on Environment by means of establishing two types of integrative permits in 2005. At present the MEPP, with international assistance, determines which activities are subject to integrated environmental permits. To make the new concept applicable, the ministry sets time schedules for the application process for adjustment permits for industrial operators. As concerns the requirements of the Seveso Directive, a specific chapter on pollution prevention and control of major accidents involving hazardous substances was incorporated into the new Law on Environment. The law now provides a legal basis for further sub-legislation to define activities subject to precautionary measures.

The transposition of the IPPC Directive was seen as a priority in the **Republic of Serbia** during the last two years. With support from the YUGOLEX project, a new IPPC Law was developed and adopted in late 2004. The law is largely aligned with the IPPC Directive. However, a number of sub-laws are required to make the law fully applicable. The drafting and adoption of these sub-laws was in progress in 2005. As concerns the prevention of industrial accidents, the Law on Environmental Protection stipulates a few basic provisions on accident risk assessment and management but these rules fall short of the requirements of the Seveso Directive. There is a draft law on protection and rescue awaiting adoption.

The Environmental Law of the **Republic of Montenegro** establishes EIA as the sole environmental permitting procedure. All new industries are subject to EIA,

although the process is not integrative. However, in the framework of Phase 2 of the YUGOLEX project, project experts produced a draft law on IPPC. The law and two related sub-regulations have been finalised and are said to be in line for adoption. Dangerous industrial activities are registered and controlled, and they must meet specific requirements. However, there are no specific industry-related provisions for risk management in place.

The IPPC concept has yet to be integrated into a policy or legal act in **Kosovo**. The best available techniques (BAT) approach was included in the first draft of the Environmental Protection Law (EPL) but taken out after intervention by external advisors during the legal review process. Industrial risks have hardly been addressed in legislative drafting efforts. An UNMIK regulation determines requirements for emergency responses for dangerous industrial activities. This regulation was prompted by the UNMIK Department of Civil Protection.

Chemicals and GMOs

Hardly any laws in SEE address the management of chemicals, and regulations that do exist date from the early 1990s. GMOs are not widely addressed, either.

Albania is one of two SEE states with a new law on chemicals, the Law on Chemical Substances and Preparations, enacted in 2003. The law has a rather framework character and entrusts the MoE with tasks and responsibilities in this field. Also in force is a separate Law on Chemical Fertiliser Control Service. A draft law on biodiversity which addresses GMOs was elaborated by the MoE and submitted for parliamentary adoption in 2002, but it was still pending at the time of the present research.

In **Croatia**, the Ministry of the Economy, Labour and Entrepreneurship has primary competence for chemicals and the Ministry of Culture oversees GMOs. Croatia is the second SEE state with new chemicals legislation in place. The Act on Chemicals, adopted in 2003, regulates the handling of chemicals, but, according to the European Commission, it is incomplete. There is no register of chemicals on the market and there is no requirement to identify new chemicals. GMOs are regulated within the Nature Protection Act and the Food Act, but secondary legislation — at least eight ordinances — remains to be drafted.

According to the National Programme for Approximation of Legislation (NPAL) in the **former Yugoslav Republic of Macedonia**, a new law on chemicals is due for 2007. There exists no law on chemicals as such yet; the existing legislation regulates the management of poisons, plant protection substances, fertilisers, explosives, flammable liquids and gases, hazardous substances and products, ozone-depleting substances, persistent organic pollutants (POPs), etc. Competences in the field of chemicals are not explicitly defined but the MEPP claims primary competence. The new Law

on Nature Protection defines GMOs and provides for a legal basis for further regulation. A new Law on Food includes obligations for testing and labeling of food products with GMO content. The MEPP has already started drafting a GMO law without international assistance. Adoption is envisaged for 2007.

A completely new law on chemicals management is under preparation in the **Republic of Serbia's** MSEP. The intention is to draft a modern and comprehensive law which complies with existing EU requirements and matches Serbian needs and capabilities for implementation. The new republic-level law will replace existing legislation at the state-union level dating from the 1990s.

There exists no specific legislation on chemicals nor on GMOs in the **Republic of Montenegro**. Based on the drafting experience on new chemicals legislation in Serbia, a comparable initiative has begun in Montenegro, and a draft law on chemicals is due to be finalised by the end of 2005. The MEPP expects to benefit from lessons learned in the drafting of Serbia's law.

At the state-union level in **Serbia and Montenegro**, the Law on Genetically Modified Organisms (2001) regulates the conditions of the contained use, introduction in production and trade of GMOs and products made of GMOs. The law sets conditions and measures for the prevention and mitigation of undesired consequences of contained use. The provisions of this law were defined pursuant to corresponding EU directives, though the law contains only the most basic framework provisions. Eight additional by-laws are required.

There is no information on legislation on chemicals or GMOs for either **FBiH** or **Republika Srpska**.

In **Kosovo**, the chemicals classification system is the only one in line with guidelines and requirements of the Organisation for Economic Co-operation and Development (OECD) and the EU. Otherwise only labour-safety regulations prevail in this field. No laws address the question of GMOs.

Noise

Noise protection is probably the area least regulated in the SEE, and with the exception of Serbia and the former Yugoslav Republic of Macedonia, it is the subject of the fewest number of ongoing or planned drafting activities.

In **Albania** the MoE has started drafting noise standards in cooperation with the public health institute, but this work has been assigned a low priority for legal drafting action.

There is no information on noise legislation for either **FBiH** or **Republika Srpska**.

Croatia adopted its Noise Protection Act in 2003. It establishes basic provisions to prevent or reduce noise and eliminate associated risks to human health. The act entrusts counties and municipalities to draw up their

own noise maps and action plans. It provides for inspection mechanisms and sets fines for violations by both private persons and government bodies. Secondary legislation already addresses specific noise sources in the transport and industrial sectors.

In the **former Yugoslav Republic of Macedonia** a Law on Noise Protection and related sub-laws for noise control are due for incorporation in the NPAL for November 2005. Noise protection is considered by the MEPP a high priority for the development of primary legislation. A legal drafting working group within the MEPP has initiated the writing of a proposed law. The group will coordinate activities to incorporate the Environmental Noise framework directive of 2002 into domestic legislation. A relevant gap analysis of Macedonian legislation and the EU acquis has already been completed.

In the **Republic of Serbia** a few noise emission limits are stipulated as part of product standards and specific product standards for selected household appliances. The new LEP empowers the Serbian government to develop and enact a special law for protection against noise and vibrations, but no such law was being prepared at the time of this research.

The Noise Protection Act of 1995 is the **Republic of Montenegro's** only law on noise. It prescribes maximum allowable noise levels in private houses, public buildings, human settlements, public areas and from vehicles. A new law on noise has been drafted with support from external local experts but the draft has not yet been submitted for adoption.

Kosovo's MESP claims competence for noise protection policy and has requested international expertise from the REC for the drafting of a law on noise protection. At present two legal acts from former Yugoslav times are applicable: the Law on Noise Protection of 1987 and the Regulation for Limit Levels in Decibels for Noise Pollution of 1988.

Nuclear safety and radiation protection

Few legal drafting activities have been undertaken in recent years in the area of radiation protection and nuclear safety.

The responsibility for protection against radiation in **Albania** lies with the State Commission for Radiation Protection at the Ministry of Health. The Law Concerning the Protection against Ionising Radiation of 1995 defines the terms and conditions for protection against ionising radiation. The commission is empowered to implement licensing procedures and to adopt normative acts and standards on activities involving radiation as well as safety measures for substances, equipment and installations emitting radiation. No legal drafting activities have taken place in recent years nor are they

planned for the immediate future.

The Act on Nuclear Safety, adopted in 2003, regulates safety and protective measures for using nuclear materials and specified equipment, and performing nuclear activities in **Croatia**. However, the European Commission emphasised in 2004 that Croatia still needed to establish appropriate regulatory bodies, competent radiation protection authorities and special independent advisory committees, particularly if it is to fully comply with the Euratom treaty. The State Directorate for Nuclear Safety, as the competent authority for nuclear safety, was founded in 2005; the body is now in charge of nuclear material and equipment, and enforcement of relevant laws.

There is no information on radiation-protection legislation for either **FBiH** or **Republika Srpska**.

The Law on Ionising Radiation Protection and Safety of 2002 is the primary law on nuclear protection in the **former Yugoslav Republic of Macedonia**. The law regulates the supervision and control of all ionising radiation sources and protection of human beings and the environment against exposure to ionising radiation. According to the MEPP, the law is largely harmonised with international safety standards and compliant with the EU directives 96/29/Euratom and 97/43/Euratom. Additional by-laws which will further harmonise domestic laws with the relevant EU directives are to be adopted in 2007, and technical assistance of the International Atomic Energy Agency has been requested to carry out this task. According to Article 122, the Law on Amendment and Supplementing the Law on Public Administration Bodies, the MEPP is in charge of nuclear safety. The Ministry of Health, though, is in charge of health protection of the population against harmful effects of ionising radiation.

There is one peculiarity in the **State Union of Serbia and Montenegro**: The Law on the Prohibition of Construction of Nuclear Plants, dating from 1995, prohibits explicitly the planning and construction of new nuclear power plants within the country's territory. In the **Republic of Serbia** a new law on non-ionising radiation and nuclear safety is being drafted and is expected to be finalised by the end of 2005. The law shall replace existing legislation from the 1990s.

In the Republic of Montenegro, the Law on Protection from Ionising Radiation and Nuclear Safety was drafted by MEPP staff and local experts in 2004. The proposal has been reviewed by experts from the International Atomic Energy Agency from Vienna but had not been adopted by this writing.

It is unclear which ministry or other governmental institution in **Kosovo** bears competence in this field. The Environmental Protection Law forms the legal basis for the government to "set the criteria and levels that need to be undertaken from emission and radioactivity." Such sub-laws shall also determine conditions and procedures for research, monitoring, and reporting on radioactive substances in the air, water, soil, flora and fauna, drinking water and food particles, but there are no current drafting activities in this field.

Regional Conclusions and Recommendations

From among the country/entity reports and the regional overview, a number of general conclusions and recommendations can be made. Of course, there are differences in the approximation process between different SEE countries and entities, but most conclusions apply to a greater or lesser extent regionwide. The same applies for the recommendations. Apart from those individual recommendations that have been made in the individual country reports, there are several that apply universally.

Both the conclusions and recommendations are structured in accordance with the findings made in the report and the actual needs of the region.

General regional conclusions

Since the completion of the Phase 1 report in 2003 all of SEE has made substantial progress in the drafting of new environmental legislation. However, if the governments of SEE want to fully harmonise their environmental legislation with the *acquis communautaire*, they have a lot of work ahead.

The general achievements in SEE, based on the findings made in this report, can be summarised as follows:

- The constitutional background for environmental protection has been established either in terms of the right to environment or as a state objective in most of the respective countries and entities.
- All SEE countries and entities have adopted several primary environmental laws in the last few years. This is true particularly in the field of framework environmental laws which incorporate horizontal aspects. Additionally, specific laws on horizontal aspects (environmental impact assessment, strategic environmental assessment, and permits for integrated pollution prevention and control) have been adopted in some places. Since horizontal regulations can be seen as the heart of environmental legislation this is an important step.
- Other primary laws have been drafted in most of the region, covering almost all areas of the *acquis communautaire*. Hence in all SEE countries and entities and in most fields of environmental protection there are at least some elementary regulations in place, at least in the form of framework laws.

However, in most cases they have not been elaborated in sufficient detail to be directly applied. Framework laws contain the most important provisions of environmental protection.

- In all the countries and entities concerned, drafting of environmental laws is ongoing, usually with the assistance of various international donors. Several ongoing and planned technical assistance projects have substantial legal drafting components.
- Almost all SEE entities and countries have a national environmental action plan in place or are in the process of adopting a plan that outlines environmental policy in terms of targets and activities.

Another positive sign is that all SEE countries and entities have given top priority to EU approximation and in recent years they have grown more aware of the need for environmental legal drafting. This is demonstrated by the number of acts (primary or secondary legislation) adopted in recent years and also by the involvement of different stakeholders and the general public in the legal drafting processes in some parts of the region.

On the one hand, the question arises if entities like the District of Brcko or Kosovo, which is under interim UN administration, with their relatively limited human capacities for legal approximation work, should aim for full compliance with the complex *acquis communautaire*. It may be reasonable to achieve a mid-term goal of drafting a core legislation based on EU principles of environmental law that can be effective in practice rather than trying to incorporate complicated details stipulated by the complex *acquis*.

On the other hand, there remain far more drafting needs. Severe obstacles and shortcomings have to be overcome if the approximation process shall achieve overall harmonisation of environmental legislation with the *acquis communautaire*.

Regional shortcomings

Most shortcomings (or obstacles) in SEE apply to the whole region, though their relevance and negative impact on the drafting process differs substantially. "Obstacles" include both the difficulties the countries/entities face as well as the problems which have to be solved.

The main obstacles are summarised and explained below because they hamper the ongoing legal approximation process. It should be a priority to tackle and overcome these obstacles. Therefore, recommendations to address them by different means are given in the following sub-chapter.

Though not investigated or analysed in the report, it is obvious that compliance, monitoring and enforcement of environmental law remain extremely limited, mainly because of the lack of human capacity and the above mentioned low quality of legislation or its incompleteness.

Setting Environmental priorities

The setting of environmental priorities has certainly improved since the Phase 1 report was drafted. Almost all of SEE has adopted at least general or topic-related strategy instruments such as plans or programmes. Some countries/entities even have legal approximation plans in place. Nevertheless, most still lack precise legal approximation plans that set drafting priorities and timetables.

Additionally, the question remains whether these plans set realistic targets and time schedules. Often, too many priorities are set at once without consideration of the lack of administrative capacity. The effect is that either poor legal instruments are drafted in haste or the drafting falls far behind the schedule so that the value of the strategic instruments is lost.

It can be observed that the priorities are determined on an ad hoc basis through political interference or the influence of donor organisations whose support for law drafting follows their own goals and perception of priorities. The positive impact of this is that international donors likely have a better understanding of the *acquis communautaire* as well as the time and manpower to transpose selected parts into domestic law. On the other side this also leads to a patchwork approach which may contribute to the existence of non-systematic and incoherent laws and sub-laws. To ensure rational conditions, means and methods of implementation, it should be avoided that the interests of individuals determine what shall be drafted next. All this reaffirms the importance of a transparent set of priorities and a need for setting such priorities in a way aligned with the goals of the *acquis communautaire*.

Approximation process

Legal approximation takes time. However, the approximation process in some SEE areas occurs under enormous time pressure set by political targets or because of political or donor intervention. An effective harmonisation process should be done in stages. A proper legal gap analysis is key to understanding what is required in light of EU requirements but also in

regard to domestic needs and what legal instruments and provisions are most suitable.

Unclear competences

The sometimes unclear and partly overlapping division of competences complicates the harmonisation of action. This is most obvious in FBiH where competences in law drafting and implementation are often unclear, leading to several redundant structures of environmental authorities which have no clearly defined tasks and rights. This problem is most rife in the water sector.

In some places, though, institutional responsibilities have significantly clarified since 2002 and, as a consequence of newly adopted strategic plans and programmes, environmental policy seems better coordinated.

Administration/institutional capacity

With few exceptions, environmental administration in SEE is weak, which greatly hampers internal legal drafting capacity. Except in the former Yugoslav Republic of Macedonia, where seven lawyers are involved in drafting processes, SEE countries and entities generally suffer from a lack of experienced lawyers with up-to-date legal drafting skills and fluency in major EU languages, most importantly in English.

Generally, the task of drafting and amending laws of high quality is enormous and far beyond administrative capacities. As stated by the EU Commission in its Third Annual SAP report:

There has been limited progress in public administration reform. Generally, administrative capacity remains poor throughout the region at state and lower levels of governments. The ability of the civil service to coordinate policy and to carry out strategic planning are held back in several countries by a lack of human and financial resources and of a clear division of responsibilities. Political interference is widespread.¹

One reason is certainly that highly skilled legal professionals who have received international legal training and who are familiar with the concept of the EC *acquis communautaire* rarely work in ministries due to poor pay and the rather limited prospects compared to those offered in the private sector or abroad. Those who receive training through technical assistance projects may leave the ministries for these reasons.

Consequently, there is a shortage of ministerial personnel capable of formulating drafts or acting as partners to international experts in international projects.

Language barrier

Language difficulties have been noted by staff members in several of the ministries contacted during this research. Language barriers mean that only few staff members speak and read English adequately,

especially in regard to legal terminology. Therefore, work with international experts must proceed via interpreter and the *acquis communautaire* must be translated into the domestic language to be understood. The most striking consequences of insufficient translations are visible in Kosovo. Many of the draft laws lack consistency between their Albanian and English versions, though both are official legal languages.

Lack of cooperation between governments

The study has shown that there is still a substantial lack of cooperation between SEE states and entities in the drafting process. Apart from limited activities under the YUGOLEX project in the republics of Serbia and Montenegro and activities within REReP 1.3 there is little exchange of information within the region.

For instance in BiH, the sub-national jurisdictions are the main operative authorities for drafting and implementing the environmental protection framework. Due to continuing mistrust and lack of cooperation, these laws often are developed separately. Considering the small distances between jurisdictions (nearly every issue is a transboundary one), it is crucial that these countries/entities harmonise their environmental laws as much as possible. This cooperation is further hindered, however, by the different course of development of new institutional frameworks.

Involvement of other stakeholders/the public

Laws are often drafted in small ministerial working groups without the participation of other relevant stakeholders, including other public bodies, NGOs, industry and trade organisations, and the general public. In some places, the involvement of external participants in the legal drafting process has started or intensified. This has two main advantages: the lack of legal drafting skills and techniques may be complemented through external expertise, and awareness and acceptance of the involvement is increased.

Questionable quality of laws produced

A large part of the existing environmental legislation in SEE needs substantial refinement — if not replacement by new laws. This is a conclusion of this survey and it relates not only to virtually all laws adopted before 2000 but also to some of the poorly drafted legislation adopted since then. The drafting needed stems partly from the EU harmonisation goals, but even more relevant is the fact that many existing laws are not applicable yet, either because sub-legislation is not yet in place or because the primary legislation was poorly written.

Primary legislation

Though many laws have been adopted in recent years, the quality of laws varies and some laws do not contribute much to the legal harmonisation process. In some cases, new legislation merely creates the false impression that the matter has already been adequately addressed and now just needs to be fleshed out with additional technical specifications to be implemented. In a few instances, the quality of the law is so low, it is impossible to implement even with subsidiary legislation.

Typical shortcomings in primary laws, in particular laws drafted in Albania, the Republic of Montenegro and Kosovo, concern:

- vague or incorrect language which leans toward declaratory principles rather than clear rights and obligations;
- use of definitions which do not comply with definitions used in the *acquis communautaire* or redundant use of definitions that have no use;
- insufficient legal structure of laws, and too few — or a complete lack of — references between clauses in the law;
- inconsistent structure of legislation, including laws that contradict other laws and are not properly linked through references (especially relevant with regard to horizontal legislation); and
- shortage and inadequacy of legal provisions allowing the competent authority/lawmaker to draft necessary sub-legislation.

All these shortcomings hinder the ability to enforce laws.

Secondary legislation

As seen, most new laws in the SEE are framework laws which require subsidiary legislation that determines procedural rules and technical standards such as emission limits, quality values, discharge thresholds and many other parameters in accordance with EC requirements. Huge efforts are required in terms of the number of sub-laws still to be drafted.² In contrast to the often rather vague text of framework laws, subsidiary legislation must regulate details in a concrete and precise manner. It is expected, though, that the implementing regulations generally will not be in place for a long time due to scarce human resources in most of SEE. Therefore it is crucial to draft further legislation according to priority needs.

Regional recommendations

The following recommendations should help to overcome the existing shortcomings and address the obstacles blocking the approximation process. They address the aforementioned problems one by one.

Legal approximation strategy based on domestic needs

It is important that the legal approximation process is based on a realistic and coherent strategy. A policy paper must be in place that clearly determines political targets and priorities for drafting. It is advisable that general plans of each country/entity (development plans, investment strategies, long-term goals for economic progress, etc.) be harmonised with the environmental plans to the largest possible extent.

Ideally, an approximation strategy is based on the real environmental problems of the respective country or entity. A pyramid of strategies or plans starts with a national level approximation strategy at the top, continues with an environmental legal approximation strategy beneath and may end with a sectoral (air, water, waste, etc.) approximation strategy at the bottom. There must be a clear agenda of legislative priorities (a roadmap) to align the legal system with the requirements of the EU; this is the prerequisite of law harmonisation. This agenda can even contain automatic mechanisms, e.g. once a framework law is adopted, the adoption of adjacent subsidiary legislation becomes a priority in the respective field.

Since SEE should strive for a clear division of legal drafting and implementation competences, this division could be clearly determined in policy plans, as well.

Furthermore, realistic timeframes should be set, taking into account available resources (internal human capacity and external technical assistance) and the complexity of topics. Setting deadlines for an environmental hot spot, for instance, has the double advantage of tackling an environmental problem and preparing the regulated community for the challenges of EU membership.

Improvement of the approximation process

Initiatives for legal drafting should be based on realistic approximation plans. If such plans do not exist, it is advisable to consider the opinions of international experts. They normally have a better understanding of the complexity of the *acquis communautaire* and a more realistic idea of the time required to draft laws of high quality. On the other hand, local experts may have a better idea of the drafting according to the urgency of environmental problems and the country's existing legal system. The best approach is to harmonise the ideas and proposals of the donors with those that are based on domestic experience.

Special attention has to be paid to consistency in the development of environmental law, i.e. a certain number of laws and legal instruments must be transposed from the EU environmental *acquis communautaire* into the legal system, but this must be done with consideration of the inherent logic of the respective laws. The

present situation in which framework laws have been adopted without the practicable secondary legislation is a good example of how far approximation has veered from being an organic process. Consistent development can also help SEE avoid the pitfalls other Central and Eastern European countries fell into. In the approximation process, some states transposed EU environmental provisions into national legal systems without ensuring consistency with the rest of their laws.

The approximation process should be systemised in terms of integration of mandatory and voluntary elements. The following should be mandatory:

- Materials and data should be secured, including relevant EC directives, and materials from other states that serve as models.
- The drafting process should be based on a legal gap analysis in order to define the legal drafting needs and possibilities.
- Effective working groups (WG) should be established which have at least one lawyer with profound legal drafting experience as a member.
- Other relevant stakeholders should be invited to WG meetings, including NGOs, other governmental bodies and international experts.
- The drafting process should tackle the whole issue, including matters to be dealt with in the primary law and those dealt with in subsidiary legislation.
- Draft proposals should be discussed and revised regularly within the WG.
- Financial cost assessments of new legislation should be done to avoid the drafting of poorly conceived laws that cannot be implemented.

There are a number of additional options that can help to improve the drafting process, such as:

- making use of laws and best practices (i.e., the most suitable for adaptation) of other SEE and EU member states;
- analysis of the EU directives context;
- full transparency of the drafting process, round tables to inform the public, etc.

A professional legal drafting process is a prerequisite for the development of high-quality laws.

Better coordination of environmental drafting activities

Due to the lack of coordination between EU environmental projects, there is a danger of the development of parallel and redundant environmental legal systems. This may require better coordination of the efforts of involved parties, most importantly donors

and the initiators of drafting exercises, to avoid overlap and to make use of experience gained in other projects. Law harmonisation must be regularly communicated to the European Commission, in keeping with official requirements.

The lack of an overview of ongoing drafting activities in various projects underscores the need for (donor) coordination. Only in BiH is there any coordination of EU-funded environmental projects.³

As a first step, within the respective ministries responsible for environmental protection, legal drafting departments, and EU integration and approximation departments should be merged, at least at this point in the approximation process. This way, structure and goal become one. The departments can be separated at a later date, of course.

If possible, as a second step, environmental law-drafting projects should be coordinated with relevant non-environmental ones in order to integrate environmental considerations into other fields of law.

Make better use of technical assistance projects

Technical assistance projects play an important role in the approximation process; the vast majority of laws have been drafted with expert input under such projects. Recommendations on the best use of technical assistance projects are threefold:

1. Even after a limited evaluation, a country-specific priority order may be formulated, while being continuously coordinated with the Commission during drafting. It could then be presented to donor organisations in order to establish a demand-driven, or proactive approach. Such an approach could follow the requirements and schedule of a national legal approximation plan.
2. International experts should provide expertise on those parts of the law in which they specialise. For instance, the concepts and skeletons of environmental laws may be defined by international experts based on EU legislation, taking into account the aims, definitions, planning or programming, major elements of the scope, the outline of legal measures (notification, permitting, reporting, monitoring, etc.), standards, and BAT requirements, etc. stipulated by EU legislation. On the other side of the coin, there are parts of the environmental law reform process in which the mutual exchange of knowledge and experience within SEE can be of equal or higher importance than the use of outside expertise. Examples may include: how to fit the reform package into the existing legal order, the division of competences, the role of competent authorities and local bodies, and certain procedural elements.

3. Technical assistance projects should be used to strengthen administrative (legal drafting) capacity. Since almost all of SEE suffers from inadequate human resources, a number of capacity-building measures should be undertaken by technical assistance projects that:

- provide translations of EU legislation;
- provide handbooks or explanatory papers on EU legislation;
- develop model laws;
- conduct internal workshops and training of staff;
- conduct multi-lateral workshops to exchange experience; and
- conduct study tours to EU member states.

Capacity building of the state environmental administration in the aforementioned topics is inevitable. In the long run, legal education must be complemented with EU law approximation and EU environmental law, both as part of the official curricula and as special courses for legal practitioners.

Generally one can say that environmental reform requires the active participation of regional and local experts in developing environmental laws and probably international expertise in the beginning of the drafting process. It is important that people with up-to-date legal education are involved in the drafting process. The process requires experts with legal drafting skills and intimate familiarity with the EU *acquis communautaire* in the respective fields. If possible, state-of-the-art legal developments in the EU should be followed, so as to prepare for the new legal instruments and solutions that respond to the challenges of today's environmental protection problems. Participation of technical staff (engineers) in the drafting of mainly subsidiary legislation containing the details of environmental regulation always improves the quality of the final outcome.

Usually drafting projects end with the presentation of a draft of a basic law related to a given problem area — such as an air quality framework, waste framework, etc. Of course, these drafts provide some details, but most of the fine points are left for further drafting. Despite this, the implementing legislation is either left out of the project or included in only a limited way. It may not be possible to develop all the implementing regulations under every drafting assistance project, but the drafting projects could at least cover the main outlines of further implementing rules, or alternatively, they could aim from the beginning at the adoption of one selected piece of legislation and its secondary regulations. At a minimum, technical assistance projects should provide a specific list of regulatory needs before a primary act is adopted.

Coordinate and initiate joint efforts with SEE neighbours on complex legal drafting topics

There remains a strong need for a regional perspective. SEE countries and entities should support each other in this process through exchange of legal experience and good legal practices on EU harmonisation. As these are largely based on a similar historical background and legal environment, shared experiences have a high degree of relevance. SEE countries currently in the midst of legal harmonisation should take advantage of the fact that there is already a country (Slovenia) with a similar legacy that is a member state of the European Union, and whose legal system is more advanced and fully harmonised. This country is a convenient example for the rest of the region due to its geographic proximity and linguistic affinity to its SEE neighbours.

In order to transpose the environmental *acquis communautaire* into domestic legislation, it is essential to have high-quality translations of directives, decisions and recommendations. As concerns translations, it seems that each SEE state and entity is arranging its own translations without making use of existing ones. One of the main tasks of the current environmental legislation CARDS project in Albania, for instance, is the translation of numerous directives of the *acquis communautaire* from English into Albanian. There has reportedly been no exchange of information about whether such translations already exist in Kosovo or could be provided to Kosovo afterwards.

Besides cost savings, there are other important considerations at the heart of the regional vision:

Integration with the EU is only possible if future members can demonstrate that they are willing and able to interact with their neighbours as EU member states do. ... Regional cooperation is a necessary accompaniment to market opening.⁴

The establishment of a regional network of environmental legal experts to be trained with international assistance could promote the exchange of knowledge and improve the drafting process. The first effort towards the creation of such a network has been made by the REC, with the founding of the Environmental Law Drafting Network of Senior Officials (ELDNSO), which already holds regular meetings.

Enhancing stakeholder involvement and public awareness related to law approximation

Once the EU environmental *acquis communautaire* is accepted as an objective for law harmonisation, the governments of SEE need to also study the EU legislative process, at least the participatory component in the drafting process. The system of “green papers” and

“white papers” can easily be adapted to the countries of the region, as can the broad involvement of interest groups and of the general public in the formulation of drafts and in the expression of concerns. The quality of legal products can be enhanced through the involvement of the legal public (law professionals) along with the general public.

Improve quality of laws

In almost all of SEE the quality of laws should be improved substantially. The primary goal should be to make a law applicable and enforceable and in compliance with the standards of rule of law. Such standards imply that laws and their content must have an explicit legal basis, provided by the constitution or, as concerns secondary legislation, the prevailing law in the legislative hierarchy. Also, the legal meaning of a provision must be understandable and its implementation by authorities must be predictable. For instance, a private person who does not know from whom and how he may obtain a permit for an activity faces the risk of several authorities asking him to apply for a permit, or several agencies fining him because he is ignorant of permit requirements.

The goal of harmonising a law entirely with the *acquis communautaire* should be a secondary priority. The most ambitious and advanced law is not worth anything if it cannot be implemented because of unrealistic demands, complexity, impossible targets, low public awareness, and other barriers.

The recommended approach to addressing environmental law drafting will remain to create framework legislation supplemented by subsidiary rulebooks and regulations. However, it may help if more laws made use of technical annexes so as to avoid too many sub-laws.

In most EU member states, the main basis of all environmental legislation is the relatively comprehensive framework acts of parliament that provide basic aims, principles, regulatory methods, roles and obligations of different stakeholders — especially state bodies and public administration authorities. The framework laws establish the most important legal measures, basic liability provisions and a great number of authorisations for further legislation and implementing regulations. Other member states have only sector environmental legislation and no framework law. Both approaches have one feature in common that is missing in virtually all SEE: an integrated legal concept. The former Yugoslav Republic of Macedonia, which has started to develop an integrated set of interrelated laws which consist of the environmental law, the law on waste management, and the law on ambient air quality is an exemption.

In order to establish a functioning environmental management system with clear and transparent rules that do not contradict each other, it is very important that the existing patchwork approach gives way to a

BOX 1

Shortcomings and responses**DISCOVERED SHORTCOMINGS**

Environmental priority setting

Approximation process

Unclear competences

Administration/institutional capacity

Language barriers

Lack of cooperation among SEE

Involvement of other stakeholders/the public approximation

Questionable quality of laws produced

RECOMMENDED RESPONSES

Legal approximation strategy in place based on domestic needs

Improvement of the approximation process

Better coordination of environmental drafting activities

Make better use of technical assistance projects

Make better use of technical assistance projects

Coordinate and initiate joint efforts with other parts of SEE on complex legal drafting topics

Enhancing stakeholder involvement and public awareness in law drafting

Improve quality of laws

coherent legal approach. Wherever necessary and useful, laws should be linked with each other by means of legal references.

For instance, the only way to achieve an integrated permitting system following the IPPC regime required by the EU is to ensure that all environmental elements are incorporated: air, water and soil protection as well as waste matters. There is no need to regulate public participation in decision making in sector laws one by one. Instead such permitting rules can be made uniform in one horizontal law.

This study provides an overview of laws and legal drafts elaborated in the SEE in all fields of the *acquis communautaire*. Though some of the laws are of insufficient quality, others are quite good. It may help if the best laws of the region were used as models in future drafting efforts.

As concerns the content of laws it is highly important that they have a clear structure and provide for a clear set of environmental rights and obligations. A potential structure of a contemporary law has been provided in Annex II of the Phase 1 report.

Regional shortcomings in legal approximation and possible responses

Eventually, only the combination of a consistent approach to law harmonisation, an informed public and knowledgeable public servants can ensure meaningful enforcement of the environmental laws in force.

ENDNOTE

- 1 *The Stabilisation and Association process for South Eastern Europe*, Third Annual Report, COM (2004) 202/2 final, 30.3.
- 2 See the example from Croatia, which is one of the most advanced states of SEE, where it is estimated that 70 percent of legislation still needs to be developed and in some areas all of the secondary legislation awaits drafting.
- 3 See EU Environmental Projects, Quarterly Newsletter.
- 4 Commission of the European Communities – Report from the Commission: The stabilization and Association Process for South East Europe, First Annual Report, Brussels, April 4, 2002, COM (2002)163 final, p. 11, 12

Part II

Country/Entity Reports

Environmental law making

Environmental legal set-up

Albania's Constitution, approved in 1998, calls upon the authorities to preserve a healthy environment, ecologically suitable for present and future generations, and "for the rational utilisation of forests, water resources, pastures, based on the principle of sustainable development." Furthermore, it provides the constitutional right of each individual "to be informed of the state of the environment and its protection."

Next in the legal hierarchy are laws, which are followed by by-laws, government decisions, decrees, ministerial orders, regulations and instructions. In the field of environmental protection two types of legal acts have been used: laws, which are adopted by the parliament and promulgated by the president, and decisions on proposals from the Ministry of Environment made by the Council of Ministers.

The National Environmental Action Plan (NEAP) for Albania was first drawn up in 1993. However, it took as long as January 2002 for an updated version of this plan to be adopted.¹ The EU Phare Programme and the World Bank assisted in the preparation of the NEAP.

The NEAP is the basic document presenting the government's policy in the area of environmental protection. It was prepared by an inter-ministerial working group under the lead of the then National Environmental Agency, which subsequently became the Ministry of Environment (MoE).

Among other functions, the NEAP shall contribute to the:

- design of the environmental sectoral policies and the implementation of the respective action plans;
- completion of the legal regulatory framework and approximation to the European framework, and its enforcement;
- active involvement of the local government in the environmental problem area and the increase of their legal responsibilities; and
- increase of capacities to attract foreign technical and financial assistance in a more efficient way.

Two of the expected results from the implementation of the NEAP are:

- strengthened institutional capacities; and
- improvement of the legal framework and its enforcement.

Neither a plan for approximation of legislation nor an environmental strategy document has been adopted in Albania.

Environmental legislation drafting institutions

In 1998 the Committee for Environmental Protection was transformed into the National Environmental Agency (NEA), falling directly under the Council of Ministers. In August 2001 the NEA became the Ministry of Environment, which is now the key governmental institution responsible for environmental issues in Albania. There are signs that the MoE will merge with another ministry in the near future, most likely the Ministry of Territory Planning and Adjustment.

The MoE has six directorates and a staff of about 40. The functions and the structures of the directorates are not fully defined. There is no legal department, but there is a small legal unit within the Directorate of Integration, Legislation and Policies.

The *2002 Stabilisation and Association Report* came to the conclusion that the new ministry does not have full control of the overall environment policy, as environment-related competences remained scattered among other ministries. Institutional responsibilities were unclear and environmental policy, on the whole, was poorly coordinated and implemented.²

It is difficult to assess how far this situation has improved since. Still, some highly relevant legal competences in environmental matters remain with other governmental bodies, as will be seen below.

Through the Law on the Organisation and Functioning of Local Government (8652/2000), local authorities assumed responsibility for the management of municipal waste and water supplies away from the central government.

Legal drafting process and approximation strategy

The most recent *Stabilisation and Association Report for Albania 2004*³ summarises the overall assessment of the current environmental and legislative situation:

Albanian environmental problems remain acute. [...] Some secondary legislation has been adopted in areas such as biodiversity, environmental management of polluted waters and conservation of trans-boundary lakes. Eco-taxes are now being collected for a number of products (carbon, plastic packaging, etc.) [...] However, overall implementation of legislation remains weak.

Whenever a new legal act is drafted, working groups are established, in which the main directorates of the MoE are involved. Other ministries become involved or take the lead if they have the key competence in the respective sector (see below). There is no formal process for establishing law drafting working groups; they are rather created informally by the most qualified staff in the MoE and other line ministries. Mainly technically educated staff is involved in the drafting process.

There are three lawyers employed by the MoE within a legal unit. Mr. Mejdiaj has been involved in the drafting of all environmental laws over the past few years.

The Commission on Health and Environment in the Parliament reviews and prepares for adoption the law drafts developed and submitted by the MoE. Its members are representatives from all Parliamentary groups.⁴ Once passed in the Parliament, laws are promulgated by decree and published in the official journal.

Environmental law drafting priorities

There is no clear picture of the legal priorities set. According to the MoE, the government follows the advice given by the EU in the course of the SAA process. However, the 2004 SAA report does not give any specific recommendations as to which legal drafting activities should receive priority.

The government of Albania and all its line ministries are in the process of preparing a national Plan for the approximation of legislation (NPAL). A draft version of this NPAL was supposed to be completed by the end of February 2005, but it has not been delivered and agreed upon to date. This plan will set out the short-term (2-3 years), medium-term (4-7 years) and long-term (8-10+ years) goals for the approximation of Albanian legislation to EU legislation.⁵ Guidance has been issued by the Ministry of European Integration to the line ministries on the preparation of their respective parts of the NPAL.⁶

According to the contractor of the CARDS project, however, this guidance does not explicitly state which criteria the line ministries should use in the process of priori-

tisation, i.e. it does not tell the ministries how to decide which elements of the *acquis* should be included in the short-, medium- and long-term priorities of the NPAL.

Under the CARDS 2002 project Environmental Legislation and Planning in Albania, which started in November 2004, a national environmental strategy (NES) shall be developed. This NES is intended to support the approximation process as set out in the NPAL.

The European Partnership Action Plan gives some indication of priorities, namely air and water pollution.

The *SAA Report 2004* highlights a number of areas of concern, but not in terms of legal approximation needs to the *acquis*. It also fails to set criteria for the selection of priority instruments for approximation.

The NEAP lists a wide range of actions which need to be taken, but does not prioritise these in terms of the legal drafting process. It lists the following draft laws to be prepared in the short term (within one year):

- air protection and standards for gas emissions;
- protection of land from pollution and erosion;
- water protection and the standards for liquid discharges;
- environmental impact assessment;
- environmental information;
- protected areas;
- biodiversity;
- waste management;
- protection of the marine environment;
- industrial accidents;
- sanitary landfilling of waste;
- waste incineration;
- coastal areas;
- liberalisation of fuel prices;
- introduction of a carbon tax for vehicle fuels; and
- introduction of payments regarding gas, liquid and solid industrial discharges.

Indeed, as described below, most of these areas have been addressed already by legal instruments since 2001.

In its *Inception Report* the CARDS project suggested transposing the framework directives in the areas of air, waste and water before focusing on the daughter directives — according to an approximation schedule — because this approach would allow for gradual administration and practical implementation of the *acquis*. Furthermore, health related directives should be seen as a priority. Measures which assist in ensuring the application of sustainable development principles within the sectoral strategies and the plans of line ministries should be considered another priority in

BOX 1

Approach to the law drafting priority-setting process in the elaboration of the National Legal Approximation Plan

- Transpose EU framework directives first, followed by the daughter directives.
- Make a precise approximation schedule for subsidiary technical legislation.
- Address health related directives first because of their vital interest to both the population and the economy.
- Give preference to mandatory emission limits over environmental quality standards.
- Introduce relevant legislation that will entail high investment costs so as to promote long-term planning to investors and financing from donors.
- Introduce measures that ensure the application of sustainable development principles within the sectoral strategies and plans of line ministries.
- The approximation process should be guided by the following legal stages:
 1. Transposition (formal incorporation of EU provisions);
 2. Implementation (of domestic provisions through sufficient administrative and practical arrangements);
 3. Enforcement (of domestic provisions through realistic control and enforcement measures).

order to avoid unsustainable economic and environmental development.

The criteria for determining legal priorities for the approximation process, as proposed by the contractor of the CARDS project, are shown in Box 1.

The project itself proposed to focus its legal assistance on the areas of strategic environmental assessment, hazardous waste, and water legislation — especially coastal zone management. However, these areas do not necessarily reflect the opinion of the MoE. Among the staff interviewed, additional horizontal legislation (e.g. on public participation and liability, air protection legislation and waste management laws) has been declared the main priority for the near future.

Integrated pollution prevention and control (IPPC), which has been a priority in neighbouring parts of South Eastern Europe, has not been considered a priority field by Albania's MoE. Nature preservation and the management and control of industrial risks are also regarded as less important, while chemicals and GMOs, noise protection and nuclear protection are seen as the least urgent areas for legal drafting activities.⁷

Lessons learned from international assistance

The CARDS project is the first major project financed by the EU in the field of environmental law approximation. Since this project was just getting under way when this report was compiled, the MoE staff could not relate any lessons learned from this project.

The first activity of the project is to provide the MoE with the complete EU environmental acquis translated

into Albanian. A legal gap analysis is planned as a start. It will cover those sectors which have been agreed for legal action within the project.

The new Law on Environment has been produced with technical assistance from the UK Department for International Development (DFID). A working group was established in which representatives of the main directorates of the MoE were involved. An international legal expert reviewed the compliance of the national environmental protection law of September 2002 with EC principles and general legal requirements. As a result of this review, a set of recommendations was prepared, providing proposals for further amendments to the Law on Environmental Protection in Albania in order to create conditions for legal drafting in full compliance with EU requirements and setting up a comprehensive environmental law system.

Legal drafting cooperation

MoE staff reported that little legal drafting cooperation with colleagues from other SEE countries has taken place so far. There was an exchange of information with the staff of the Croatian Ministry of Environment on the legal establishment of an environmental fund system.⁸ However, no such system has been legally established. Most cooperation with SEE neighbours has taken place within the REREP 1.3 programme. The provision of information and knowledge from Slovenian experience on their chemical management and control system was highly appreciated by MoE personnel.

Examples of laws from other countries have been used, for instance those of Bulgaria and Hungary on

the management of solid waste, and the Finnish example on the management of hazardous waste.

Obstacles and constraints

Based on information from the MoE and the available documents, the main institutional and administrative obstacles for proper legal approximation can be described as follows:

- There is a considerable lack of inter-ministerial coordination.
- There is a dysfunctional distribution of competences among ministries in some areas.
- Ministries and competent authorities do not have structures which would allow for a smooth legal drafting process, i.e. there is no structured and regulated uniform process for proceeding with the drafting of laws.
- There is a lack of qualified human resources in the MoE, which is a precondition for initiating and coordinating proper legal drafting processes (there are only three lawyers in the MoE).
- Working groups are only established informally; there are hardly any inter-ministerial working group meetings.
- No schedule for legal harmonisation processes exists, and there is no other guidance on the approximation process.

Legal overview by environmental sectors

In Albania, environmental laws from earlier periods remain in force, while others have been repealed by legislation to be mentioned later. The most important laws still in force are:

- Law No. 7875 on Protection of Wild Fauna and Flora (1994) (with the exception of some articles being repealed by Law No. 8906);
- Law No. 7917 on Pastures and Meadows (1995);
- Law No. 8025 Concerning Protection against Ionising Radiation (1995);
- Law No. 8053 Concerning the Right of Access to Official Documents (1999);
- Law No. 8093 on Water Reserves (1996);
- Law No. 8094 on Public Disposal of Waste (1996);
- Law No. 8102 on Water Supply and Waste Water Management (1996); and
- Law No. 8405 on Urban Planning (1996).

Albania adopted 10 laws and several supplementary decisions in the field of environmental protection between 2001 and 2003. The important environmental acts passed in recent years includes:

- Law No. 8752 Concerning the Creation and Operation of Land Protection and Administration Structures (2001);
- Law No. 8897 on the Protection of Air from Pollution (2002);
- Law No. 8906 on Protected Areas (2002);
- Law No. 8905 on Protection of Marine Environment from Pollution and Damage (2002);
- Law No. 8934 on Environmental Protection (2002);
- Law No. 8990 on Environmental Impact Assessment (2003);
- Law No. 9010 on Environmental Treatment of Solid Waste (2003);
- Law No. 9103 on the Protection of Trans-boundary Lakes (2003);
- Law No. 9108 on Chemical Substances and Preparations (2003); and
- Law No. 9115 Concerning the Environmental Treatment of Polluted Waters (2003).

According to the MoE there are a number of further sub-laws and decisions in the legal drafting process, but no particular areas were named. One ongoing legal drafting support project is the above mentioned CARDS project, which focuses first on gap analyses (in areas still to be determined) and on the provision of the complete EU *acquis* to be translated into Albanian.

Horizontal legislation

Competent authorities

The MoE is the main lawmaker and competent authority in the field of environmental protection. As such it has drafted or initiated most of the environmental laws compiled in the compendium. It is also in charge of all normative acts that could be considered horizontal legislation.

Laws and regulations in force

The Law on Environmental Protection (No. 8934) of September 5, 2002 is the new cornerstone of environmental legislation in Albania. The law superseded the Law on Environmental Protection of 1993. The new law is considered by the MoE to be a framework law, which means that numerous other laws and sub-laws are required for it to be properly implemented. This approach is underlined by the wording of Article 6, which reads:

The protection of air, of natural and mineral resources, of water, soil and forests with their relevant ecosystems, pastures, protected areas; the administration of hazardous substances and wastes, solid and liquid wastes, coastal areas and marine environment, the protection of nature and biodiversity are regulated by specific law.

In the legal text for some areas such as soil, water, air, ozone, biodiversity, and waste management, the basic requirements and principles are stipulated, but there is no determination of specific legal rights, as obligations or procedural matters.

The Law on Environmental Protection (LEP) consists of 11 chapters, namely:

- General Provisions;
- Environmental Policies;
- Use and Protection of Environmental Constituents;
- EIA;
- Permitting of Activities that Affect the Environment;
- Prevention and Reduction of Environmental Pollution;
- Monitoring and Data;
- Environmental Control;
- Duties of the State Bodies;
- Role of the Public; and
- Sanctions.

Albania ratified the Aarhus Convention on June 27, 2001. According to the 2004 SAA report, however, the country is not yet in a position to implement it.

The head of the legal unit of the MoE stated that all laws adopted since 2001 have been drafted in light of the provisions of the Aarhus Convention. Article 77 of the LEP stipulates that “the MoE defines the rules and procedures for the publication and provision of the environmental information by the environmental protection bodies.”

No further rules have been defined. However, the Law Concerning the Right to Access to Official Documents (Law No. 8053 from 1999), which is not a specific environmental law, already regulates access to official documents kept by a public authority.

In line with this law, public authorities are obliged to provide any information relating to any official document except when otherwise provided by law. Further details on how to request and provide information, restrictions, costs and administrative complaints by individuals whose request has been rejected are also regulated in more detail. There is no reference in Article 77 of the LEP to this “Law on Access Rights.”

With respect to public participation in environmental decision-making processes, Article 78 requires decision-making bodies to ensure the participation and

active role of the public and non-profit organisations during the decision-making process. The MoE has yet to define the rules and procedures that realise participation (Article 78.2) in further legal acts.

Neither law makes any reference to the Aarhus Convention, to Albania’s obligations arising from its ratification, or to the respective EU directives.

The legal basis for the establishment of the EIA and SEA instruments has been laid down in articles 26-33 of the LEP. Additional provisions were required for both instruments as stipulated by articles 26.5 (for EIA) and 28 (for SEA).

A Law on Environmental Impact Assessment (No. 8990) was adopted in early 2003 that regulates the procedural details of an EIA. Article 5 of this law says that “Procedures, deadlines and parties’ obligations in all phases of the SEA process shall be the same as for projects requiring profound process of impact assessment on the environment.”

According to the provisions of the law, two types of EIA are being conducted: a “profound” EIA and a “summary” EIA. The profound EIA is a more comprehensive investigation of the project’s expected impact, and projects which are listed in Annex 1 to the Law on EIA shall be subject to such a procedure. Projects listed in Annex 2 shall require a summary (simplified) investigation.

This law has been supplemented by a ministerial decision concerning the certification of environmental specialists on EIA and environmental auditing (2003), but other important related processes, such as the methodology of the EIA process and report, need to be determined by subsidiary legislation.

Status of legislation

The status and quality of the horizontal legislation differ considerably.

The instrument of EIA/SEA has been established by the Environmental Law (chapter IV). According to Article 26.5, the MoE has the right to determine in a special law the projects subject to an EIA, the EIA procedure, public participation in EIA and decision making.

The EIA law seems to be this special law. However, the law itself contains no such reference to Article 26.5. Instead it finds its explicit legal basis in the provisions of the Constitution only. The law regulates parts of the EIA procedure and the decision-making process by defining the stages of the EIA process, the actors involved, the time frame for the whole procedure, and other framework provisions for all steps of the EIA procedure. The Requirements for implementing a trans-boundary EIA have also been included since Albania ratified the Espoo Convention on Transboundary Impact Assessment in 1991.

Though its rules shall also apply for strategic environmental assessments of certain plans and strategies,⁹ the law does not take into account that the actors

involved, the assessment process and the procedural stages will need to be considerably different from a project-related EIA in order to be implemented effectively. Among other procedural details which are still lacking, the MoE is required by law (Article 26.1) to determine, in another normative act, the duties of environmental bodies in order to guarantee public and NGO participation in this process. The extent to which the EIA law complies with EU legislation cannot be assessed within the scope of this report. Certain aspects (the role of public debate in decision making, alternatives to be proposed in the EIA report) clearly fall short of EU requirements. Despite its shortcomings the act certainly sets a legal basis for EIA, and perhaps SEA as well.

Public participation in other decision-making procedures, as well as the issue of access to environmental information are not truly regulated yet. Pursuant to Article 78 of the LEP “the MoE defines the rules and procedures that realise the participation of the public in the decision making of environmental bodies.” Such a sub-law has not been drafted yet, which makes it difficult to realise proper public participation in the highly important environmental permitting procedure established by the LEP.

The same applies to the provisions on access to environmental information: The MoE defines the rules and procedures for the publication and provision of environmental information by environmental protection bodies (Article 77.2). The above mentioned law (8053) on access to official documents does not state when, how or under which conditions access can be requested or information obtained, but merely stipulates that it must be “in accordance with laws, by-laws and published regulation” (Article 9).

There is no legislation yet on environmental liability. Article 4 of the LEP stipulates that “environmental protection is based - among others - on the principle of legal liability,” but the law leaves open how legal liability shall be determined.

One may find elements of environmental liability in the civil code, although in a broad sense. The Albanian Civil Code (Act No.7850 dated July 29, 1994) establishes in Article 624: “Environmental liability” — traditional fault-based liability. Article 622 “Liability from exercising dangerous activities” is strict liability (only certain excuses such as act of god and act of war are available). Dealing with, for example, hazardous substances or hazardous waste may give rise to liability under Article 622.

Environmental law drafting in progress

According to information provided by the MoE, no horizontal laws are in the drafting process, and there are no plans for such drafting.

Obstacles, constraints, achievements and needs

With respect to horizontal legislation in Albania, the main obstacles are that no normative acts have been adopted to provide for an applicable legal system, with the exception of those concerning EIA.

The provisions on SEA fail to take account of the complexity of this issue, while public participation and access to information are only partly regulated, and there are insufficient provisions on environmental liability. One of the main shortcomings is the unclear permitting procedure. The permitting system established cannot be considered as an integrated permitting system in the sense of the IPPC Directive because there is no integrative approach. As will be described later, other laws also require their own permits.

In practice, the permit issued by the MoE is a one-page paper document which addresses all environmental concerns.¹⁰ This type of practice is not even in line with the existing legislation in Albania, which requires a more extensive permit. Details of the permitting system are as yet unregulated.

The LEP can be seen as a first step towards a modern approach, but it would need comprehensive refinement to be aligned with EU legislation and serve as a framework law for further legal acts.

Water quality

Competent authorities

There is no clear competence rule as concerns the drafting of water protection legislation.

Since 1998 the former NEA (now the MoE) has been responsible for water protection. It is responsible for setting water quality standards and water emission limits in coordination with other ministries. LEP Article 15.3 reads:

The MoE through the specific cooperation with the Minister of Health, Minister of Industry and Energy, Minister of Agriculture and Food, Minister of Territory Adjustment and Tourism and Minister of Culture, Youth and Sports, will approve the criteria for the above categorisation of waters and define the rules, procedures and measures for their use and environmental protection.

Environmental permits to regulate and control domestic and industrial emissions into water are issued by the MoE.

Besides the MoE, three other ministries (Health, Agriculture and Food, and Territory Adjustment and Tourism) are entrusted with competences in the field of water management and protection.

The Ministry of Health is in charge of drinking water quality control. The Ministry of Territory Adjustment and Tourism plans and manages the water supply and water treatment infrastructures. The National Council of Water (NCW) is the central decision body for the management of water resources.¹¹ The Ministry

of Agriculture and Food is in charge of the maintenance of irrigation and drainage infrastructure.

Laws and regulations in force

Several laws are applicable in the area of water management.

The Law on Water Resources (No. 8093) (also translated as the Law on Water Reserves) regulates the conservation, development and utilisation of water reserves, the distribution of water reserves and the protection of water reserves from pollution (Article 1). It establishes a distinct system of permits, authorisations and concessions for different kinds of water use.

Standards for discharges will be determined jointly by the NCW and the Ministry of Health and Environment Protection, which are now two different ministries. It is unclear whether such discharge thresholds exist; there are no such standards in the legal compendium. In March 2005 the Council of Ministers adopted a decision On the Allowed Limits of Water Discharges and the Zoning Criteria for the Receiving Waters. According to the MoE, this by-law is directly related to Law No. 9115 (discussed below).

The Law on Water Supply and Waste Water Management (No. 8102), also issued in 1996, deals with securing a safe and reliable drinking water supply and domestic wastewater treatment. The law introduces a compulsory licensing regime for companies wishing to distribute drinking water and collect and treat wastewater. The law establishes the national Water Supply and Sanitation Regulatory Commission under the auspices of the Ministry of Territorial Adjustment and Tourism.

The most recent Law on Environmental Treatment of Polluted Waters (No. 9115) addresses the treatment of polluted industrial and urban waters. The law establishes another licensing system on “requirements, terms and conditions for construction sites of plants and installations for water purification operations” (Article 18.2). Permissible norms of liquid discharges are to be determined by the MoE by means of a special decision.

Additionally, the Law on the Protection of the Marine Environment from Pollution and Damage (2002) and the Law on the Protection of Trans-boundary Lakes (2003) are to be named as well. Those laws protect the marine environment of Albania from pollution and damage, as well as the lakes at the border between Albania and its neighbours, mainly through a management and control system and the prohibition of a range of environmentally harmful activities.

Status of legislation

It is difficult to assess the extent to which the various water laws are compliant with EU legislation. All laws described above establish definitions, principles, and permitting and monitoring rules. The question remains, however, whether in the field of water man-

agement and protection so many diverse laws and competences of different governmental authorities are of any benefit. The UNECE report says: “Taken individually many of the laws are well written but they lack consistency and overall coherency. In some cases they are fragmented and overlapping.”¹² This point seems especially true for the water sector, where it is most obvious that there is no coherent legal system in place.

None of the laws makes references to any of the other laws, though there are a number of similar aspects addressed. Even the LEP, which serves as a frame and should be the legal basis for all subsequent sectoral laws, is not mentioned anywhere.

The 1996 Law on Water Resources can be seen as a first attempt to introduce a sound and sustainable water management system based on EU principles and directives. However, in order to be put in practice a number of procedural provisions and, more relevantly, technical standards (thresholds, quality standards, charges and other parameters) still need to be defined. All of these conditions lead to the conclusion that it would be highly beneficial to initiate a comprehensive reform of the existing water legislation regime in Albania.

A national water strategy for Albania was approved in late 2004. However, the country does not have a national water plan. A draft plan prepared with Phare technical assistance in 1997 was never adopted because of a lack of agreement among the authorities with competences in water policy.

Environmental law drafting in progress

No information is available on this topic.

Obstacles, constraints, achievements and needs

The situation regarding sewage is critical due to the lack of control over wastewater discharges. The water supply was described as unsatisfactory¹³ in 2002.

No water quality standards exist for water resources — groundwater, surface waters, or coastal waters — in Albania. The Environmental Law Compendium does not contain emission limits for waters either (in contrast, for instance, to air pollution). Pursuant to Article 50.5 of the LEP, standards shall be based on EU directives, on the objectives of the national environmental policy and on the best available techniques. Drinking water standards that have existed since 1997 are aligned to standards set by the World Health Organization.

The Law on Water Resources provides for the collection of fees on discharged waters, but no charge levels have been established. Financial exemptions for individuals who reduce their water consumption or discharges into water are also foreseen. Article 25.3 in the LEP allows for imposing environmental taxes on discharges into water, air and soil. For all instruments details must still be regulated by special law.

Air quality

Competent authorities

The law entrusts the Ministry of Health to determine air quality norms together with the MoE. Norms on permissible emissions are to be proposed by the MoE and shall be based on EU standards. The Ministry of Industry and Energy is responsible for setting fuel standards.

Laws and regulations in force

According to Article 16.1 of the LEP, air protection is regulated by a special law. Even before the LEP was adopted, the Law on Protection from Air Pollution (No. 8897) of May 16, 2002 was enacted in Albania. It is the key legal instrument on air protection. New standards for ambient air quality have not yet been set. Instead, the existing set of air quality standards of 1974 is still in place. These standards are based on maximum allowable concentrations (MAC).

In a decision approved on September 12, 2002 a comprehensive set of emission norms has been issued by the Council of Ministers. For existing sources of pollution which can not meet the new standards due to low technical standards, the MoE shall determine provisional standards. However, in cases where human health and environment are being harmed, the ministry reserves the right to warrant a suspension of operation. Such temporary norms for air emissions were issued in a decision of the Council of Ministers in 2002.

Emission thresholds for mobile sources are to be approved by a joint decision of the MoE and the Ministry of Transport and Telecommunications. This legal act has not been adopted. Existing standards only set limit values for smoke.

The present fuel standards date back to 1987, but there are no plans to revise the standards.

Status of legislation

The Air Protection Law distinguishes between “big/large sources of pollution,” which are immovable sources of thermal energy input exceeding 5 megawatts, “medium sources” (0.2-5.0 MW), and small sources (less than 0.2 MW of thermal energy input). It sets basic requirements for self-monitoring, recording and reporting, and stipulates some “main obligations” for operators of both mobile and point pollution sources. One example is the obligation to make “use of only the best possible modern technology in the construction of new works and the renovation of existing ones.”

Furthermore, Article 17 establishes a permitting regime for all large and medium-sized pollution sources. It does not, however, indicate how such a permitting system should function in more detail. Though Article 21 obliges the competent authorities to adopt additional by-laws on certain provisions in order to

make the law enforceable, this obligation does not include a further refinement of the permitting system.

Environmental law drafting in progress

The MoE has expressed its intention to address air protection legislation as a priority.¹⁴ Since other ministries are also entrusted with air protection measures, functioning cooperation with those authorities is a condition for the drafting of new/improved normative acts in this field.

Obstacles, constraints, achievements and needs

Albania has only the most basic legal prerequisites for air protection legislation. Though the law on air protection establishes obligations for operators, these remain vague, very general and incomplete. The permitting system has not been shaped in a form which would make it applicable. The law does not foresee an integrated permitting system.

A detailed set of emission parameters is in place,¹⁵ and there is also a decision of the Council of Ministers December 2003 On Air Quality Standards.¹⁶ The Air Protection Law has no reference to the LEP, and vice versa.

Nature protection

Competent authorities

The responsible authority for the application of nature conservation laws is the MoE, while other related laws to be mentioned later fall under the powers of the Ministry of Agriculture and Food.

Laws and regulations in force

Since 1998, substantial effort has been put into the legal development of nature protection legislation and administration. The Law on Creation and Operation of Land Protection and Administration Structures (No. 8752, 2001) was adopted in order to strengthen the administrative structures in charge of nature protection on the local level.

The LEP has a number of provisions related to nature protection, for instance on soil protection, protection of the humus layer and protection of biodiversity. Most relevant, though, is the Law on Protected Areas (No. 8906) as the main legal instrument since 2002.

Still, this law makes no reference to other legal acts, such as:

- Law No. 7917 on Pastures and Meadows, which guarantees the protection of the ecological balance of pastures and meadows;
- Law No. 7908 on Fisheries and Fish Farming, which regulates both marine and freshwater fisheries;

- Law No. 7875 on Hunting and Wildlife Protection, which addresses the issue of wildlife management plans to be established; and
- Law No. 7662 on the Plant Protection Service, which provides for the organisation of plant protection.

Status of legislation

The object of the Law on Protected Areas is the declaration, preservation, administration, management and use of protected areas and their natural and biological resources. The law is supplemented by the Decision Concerning the Declaration of Nature's Monuments in Albania as Protected Zones of December 2002.

The law classifies six categories of protected areas in the style of the IUCN categories, namely:

- a) strictly natural reserve/scientific reservation (Category I);
- b) national Park (Category II);
- c) national monument (Category III);
- d) natural managed reservation/area of management of habitats and species (Category IV);
- d) protected landscape (Category V); and
- e) protected area of managed resources/protected area with multi-purpose utilisation (Category VI)

A buffer zone may be declared around each of the first four categories. The decision as to whether an area is a Category I-VI protected zone is subject to a decision of the Council of Ministers on the proposal of the MoE. Management plans for each protected area shall be prepared by the MoE. Notably, the Law on Protected Areas establishes the MoE as the only governmental body to propose new protected areas to the Council of Ministers, after consultation with local authorities, the public and other governmental bodies.

In 1996, Albania drafted its Coastal Zone Management Plan. It focuses on the development of tourism and protection of biodiversity in coastal areas during the development of recreational activities, and institutional strengthening of the institutions responsible for coastal management. The Coastal Zone Management Plan was approved in 2002.

Environmental law drafting in progress

The need for legislative action on nature protection has been considered as moderate by the MoE staff interviewed.

Obstacles, constraints, achievements and needs

Albania's national environment is suffering from unsustainable forestry and agricultural practices as well

as from industrial pollution and uncontrolled building activities. Most of its natural habitats are damaged. Nature preservation is described as more severely hampered than in other countries in transition due to its long isolation and economic crises in 1997.¹⁷

Despite having set similar, detailed nature protection legislation, none of the legal acts are fully compliant with the EU Habitat Directive or the Birds Directive.

Moreover, the general observation made on most Albanian laws is also relevant here: The Law on Nature Protection is not based on or connected with the framework LEP, or with any other laws except the Constitution, which serves as its legal basis. Each of the laws stands alone, and therefore much needs to be done before a coherent legislation system in this field is established.

Waste management

Competent authorities

According to the provisions of the LEP, the Ministry of Environment is responsible for the drafting of waste management legislation and the enforcement of waste related rules. The Ministry of Industry and Energy, however, is the competent governmental institution in charge of waste management.

Laws and regulations in force

There is a framework law on municipal waste called Law No. 9010 on Environmental Treatment of Solid Waste. The LEP addresses waste management in articles 20-23 by stipulating some general obligations such as "persons whose activity creates waste are obliged to use processes and techniques that pose no risk to human health, water, air, soil, plants and animals." It also establishes the contemporary aims of waste management (prevention, recycling, reuse and regeneration of wastes).

The existing legal system on waste management is completed by Decision No. 26 of 1994 on Hazardous Waste and Garbage, which defines hazardous waste, residues and urban solid waste, and by Decision No. 776 of 1998 on Obligatory Collection and Deposit of Abandoned Vehicles.

Status of legislation

No other statutory source in the LEP allows for additional waste legislation. Nevertheless, two further pieces of primary waste management legislation are in force.

The Law on Public Disposal of Waste (No. 8094) of 1996 prescribes a few basic legal responsibilities and conditions as concerns waste collection, waste transport, waste processing, control and supervision, and waste disposal. The law falls short of determining any procedure, and stakeholders' obligations are only defined in a very general manner in Article 16:

Any physical or legal person is obligated to protect from waste pollution the urban environment as represented by any public or private facility, open space (not forming object of the cleaning services) as well as the surrounding territories.

A more sophisticated law is the Law on Environmental Treatment of Solid Waste (No. 9010) of 2003. The purpose of this law is to ensure the protection of the environment and human health from pollution and damage resulting from solid waste. Special attention in this law is given to the processing and elimination of urban, industrial, construction and other waste streams, but it does not apply to hazardous waste.

The law stipulates the principles for waste management as reducing the amount of waste, increasing the share of waste to be treated and recycled, sorting waste, not mixing hazardous and non-hazardous waste, and disposing of waste close to where it has been generated.

In 1998 a national Waste Management Plan was adopted which includes measures for solid, urban, industrial and hospital waste management and for the rehabilitation of uncontrolled dump sites. The plan calls for the development of a strategy and action plan for both:

- the sustainable management of municipal waste and sewage in urban areas, including an assessment of the present situation and the improvement of the legal and institutional frameworks; and
- the management of hazardous, industrial and medical waste, including the drawing-up of an inventory of hazardous waste, as well as the legal improvement of the legal and institutional framework.

However, none of these strategies and action plans has been drafted or adopted.

The import of hazardous substances for the purpose of storage and disposal is explicitly banned. Import of all kinds of waste for use or recycling purposes shall be made according to rules to be adopted by the Council of Ministers. The decision of the Council of Ministers On the Rules and Procedures for Import of Wastes regulates further details.

The decision On The Albanian Catalogue Of Waste Classification was adopted by the Council of Ministers in January 2005.

Environmental law drafting in progress

A first draft law on the environmental management of hazardous wastes has been tabled internally and is under discussion. A draft strategy for hazardous wastes is also being discussed internally.

Obstacles, constraints, achievements and needs

The present legislation on waste falls short of complying with EU legislation. Not only are essential details

on aspects of waste collection, disposal, recycling and reuse for implementing the existing provisions missing, there is also no legislation on hazardous waste (except the one on hazardous waste and garbage, which defines hazardous waste, residues and urban solid waste), almost nothing on specific waste streams (except the one on obligatory collection and deposit of abandoned vehicles), no provisions on waste incineration or landfills, and no list of wastes in accordance with the EU waste catalogue.

The interrelation of the two laws in this field is unclear; both address similar aspects of waste management (processing of waste and its disposal) but make no cross-reference, not even as concerns the definitions which appear in both laws.

In order to achieve a functioning waste management system a new comprehensive framework law should be developed that is harmonised with the acquis. The MoE rated waste legislation as a high priority for legal action. The drafting of hazardous waste legislation may become part of the project activities under the previously mentioned CARDS project.

Industrial pollution control and risk management

Competent authorities

According to LEP Article 49, four ministries together — the MoE, Ministry of Labour and Social Affairs, Ministry of Health and Ministry of Local Government and Decentralisation — shall develop norms on:

- identification of activities which use hazardous substances;
- criteria for the establishment of an accident prevention and control system;
- the measures to be taken;
- the obligations of physical and legal persons; and
- the controlling bodies and their competences.

Laws and regulations in force

Very little legislation exists concerning the prevention of industrial risks. LEP Article 24 authorises the competent governmental body to regulate by special law “the production, use, storage and transportation of hazardous wastes as well as the management of hazardous technologies.” Except for the Law on Chemical Substances and Preparations, no law addresses any of these matters.

LEP Article 49 requires physical and legal persons who use hazardous substances in processes to establish a system of accident prevention and control.

Status of legislation

According to Article 36 of the LEP, the operation of installations which have an environmental impact requires an environmental permit from the MoE before construction. However, the shortcomings of the permitting process also concern the requirements of the Seveso Directive requirements, which are not incorporated into the permitting procedure under the LEP.

Environmental law drafting in progress

None of the normative acts mentioned under the subheading “Competent authorities” has yet been adopted or seems to be in the drafting process.

Obstacles, constraints, achievements and needs

No information is available on this topic.

Chemicals and GMOs

Competent authorities

The law entrusts the MoE with most tasks and responsibilities related to chemicals and GMOs, including:

- keeping the National Register of substances and preparations;
- undertaking measures for risk assessment to human health and to the environment of substances listed in the annex to the law; and
- elaborating the list of chemical substances and preparations for which the production, introduction into the market and use are limited or prohibited.

Laws and regulations in force

The Law on Chemical Substances and Preparations (No. 9108) aims to regulate the management of chemical substances and preparations for the protection of life and health of people and animals, as well as for the protection of environment from risks that may be hazardous. Also in force is Law No. 8531 regulating the Chemical Fertiliser Control Service.

Status of legislation

No information is available on this topic.

Environmental law drafting in progress

A draft law on biodiversity that also addresses GMOs was elaborated by the MoE and entered into the parliamentary adoption process in 2002, but it has been pending there ever since. The reasons for this delay were not provided by MoE staff.

Obstacles, constraints, achievements and needs

No information is available on this topic.

Noise

Competent authorities

Where the competence lies for the management of noise protection is not fully clear.

Laws and regulations in force

There is no primary law addressing noise. No noise related standards can be found in the legal compendium. The LEP lists noise as one kind of environmental pollution and requires persons who handle waste “not to cause any additional noise.”

Status of legislation

Law No. 8224 of May 15, 1997 covers the organisation and functioning of local police. It grants certain powers to the police for noise abatement, but only with regard to community noise sources, not regarding industrial noise and vibration.

Environmental law drafting in progress

According to MoE staff, the ministry is in the process of drafting noise related standards in cooperation with the Public Health Institute.

Obstacles, constraints, achievements and needs

Noise legislation has been given low priority for legal drafting action.

Nuclear safety and radiation protection

Competent authorities

Protection against radiation is the responsibility of the State Commission for Radiation Protection at the Ministry of Health. The commission is empowered to implement licensing procedures and to adopt normative acts and standards on activities involving radiation, as well as safety measures for substances, equipment and installations emitting radiation (Article 9 of Law No. 8025).

Laws and regulations in force

The legal basis for nuclear safety and radiation protection is the Law Concerning the Protection against Ionising Radiation (Law No. 8025).

Status of legislation

No information is available on this topic.

Environmental law drafting in progress

Law No. 8025 defines the terms and conditions for protection against ionising radiation in cases of activities using radioactive substances and radiation equipment of the population and the environment from potential danger of radiation.

Obstacles, constraints, achievements and needs

No information is available on this topic.

Conclusions and recommendations

At the time of the Phase 1 report a bulk of new environmental legislation was mostly in the pipeline. Just two years later a range of new laws that address environmental protection and management from a more modern perspective are in place.

In the foreword to the *Third Compendium of the Environment Legal Acts in Albania* it is stated that

The new environmental legal acts included in the Third Compendium, were prepared to lay the bases for environmental protection and sustainable development in the country and at the same time prepare it for the European integration. Therefore, they were based on different EU directives, as well as on the requirements of different international environmental agreements, to which Albania is a party. From this view point, they can be considered as being approximated.¹⁸

However, basic analysis shows there to be numerous substantial general requirements in place, and several necessary environmental legal instruments are mentioned in various legal acts, but virtually none of the acts in place has been harmonised with EU legislation. Some acts are partially harmonised (EIA, water and nature protection), others not at all (waste legislation, air legislation) and some are non-existent (hazardous waste, noise, liability, industrial risk prevention).

As of the end of 2004, the legislation is not sufficient to be applicable in practice. This is mainly because effective enforcement needs practicable and detailed provisions.

There is a substantial need for an overall adjustment of environmental laws to European legal principles and, in particular, to current international standards. This need applies to virtually all laws drafted in Albania.

There is a clear need for a legal approximation plan and an environmental strategy to be adopted (preferably with the help of the CARDS 2002 process). The strategy should embrace the idea of sustainable development and extend to areas such as climate change.

A formalised drafting process must be established with clearly assigned roles and responsibilities, and a definition of the composition of drafting working groups.

At the beginning of the drafting process, a detailed gap analysis should be completed for the EC directives in each sector. These analyses need to be based on clearly set drafting priorities, which are still missing today despite the numerous documents listing, but not prioritising, areas of concern.

Bearing in mind the administrative and institutional shortcomings highlighted, further technical assistance should focus also on advice from environmental lawyers as concerns legal drafting techniques to avoid inconsistent and fragmented laws, unnecessary repetition, and imprecise provisions. The roles and responsibilities of institutions in the existing legal system should be clarified for each sector.

Regional cooperation with new and candidate EU countries has to be improved, since there is enormous experience in the countries of the CEE and SEE regions in this regard.

The MoE should not be merged with another ministry. On the contrary, its functions and structure should be better defined and a separate legal department should be established (and enhanced) within the overall empowering process of the MoE.

The NEAP needs to be systematically implemented. Efforts should be made to consolidate discrete legislation into coherent and comprehensive laws, especially in the fields of water and waste management.

There is a need for clearly defined legal rights and obligations in environmental protection. Public participation in permitting procedures, including both EIA and SEA, should be guaranteed by the laws in a way that the public can truly take part in the decision-making process. Besides these procedures, public participation rights are still to be defined in a way that they are aligned with the Aarhus Convention. Legal drafts should undergo an Aarhus compliance check before adoption, and a process for this should be established.

It is difficult to assess legislative priorities. In order to establish a functioning environmental law system which is based on a framework law like the one in Albania, this law must be of good legal quality so that it can serve for subsidiary legislative acts. The LEP is not in such good shape.

The full EIA regime lacks some components, e.g. regulation of EIA methodology. Also a separate piece of legislation should govern SEA, bearing in mind its distinctive character from the one of EIA.

The establishment of an integrative permitting system should be another priority. The area of waste management is the most under-regulated, especially with regard to hazardous waste. Regarding air protection, legislation should discourage or even ban the import of used cars of a certain age or at least introduce strict emission limits as a precondition to importing.

In order to approximate to EU standards, the exist-

ing air protection regulations require the incorporation of a range of new quality standards. This need also applies for water protection policy in Albania, which lacks sufficient water protection standards and discharge limits. Needless to say, full compliance with standards and thresholds should be a key aspect of environmental permits.

Clear competences regarding water protection should be concentrated into one hand, preferably at the MoE.

The field of nature protection is regulated in a most comprehensive and clear manner, though it is beyond the scope of this study to assess the extent to which the requirements of the Birds and FFH directives have been complied with. Clear restrictions or prohibitions are needed in this field. Otherwise, natural values tend to become victims of economic growth.

All technical advice activities should be accompanied by measures such as staff training (in particular on the EU acquis and the relation between the directives and decisions), and information and education campaigns for the public.

Information sources

A compendium containing a large amount of Albania's environmental legislation was provided to the author in English. This nearly 600-page compendium from March 2004 contains more than 40 laws and amendments, as well as decisions adopted in Albania between 1992 and 2003. Its table of contents does not indicate whether a legal instrument is a law or a subsidiary normative act.

Furthermore, the *Inception Report* of the CARDS project Environmental Legislation and Planning from February 2005 was made available.

A meeting took place in the Ministry of Environment on March 9, 2005 with the head of the Directorate of Integration, Legislation and Policies (Mrs. Panariti), the head of the Directorate of Pollution Prevention (Mrs. Kamberi) and the head of the Legal Sector (Mr. Mejdiaj). Later the author also met a representative of the aforementioned CARDS project.

The questionnaire which was sent to the MoE was first answered by Mr. Mejdiaj and later to some extent complemented by Mrs. Panariti. However, most questions remained unanswered.

Other papers, such as the draft NEAP, the Stabilisation and Association Reports from 2002 and 2004, and the *UNECE Environmental Performance Review Report* of November 2002 were used as a basis for information.

ENDNOTES

- 1 The draft document that was made available to the author is titled "Updated National Environmental Action Plan 2001 (UNEAP)."
- 2 *Stabilisation and Association Report 2002* —SEC(2002) 339, [COM(2002) 163], at 4.3.3.
- 3 *Stabilisation and Association Report 2004* — SEC(2004) 374/2, [COM(2004) 203], at 4.3.3.
- 4 See *UNECE Environmental Performance Review of Albania*, November 2002 (called here: UNECE Report). In early 2005 the Commission was re-organised and became the Commission on Agriculture and Environment.
- 5 The NPAL was approved by the Albanian government in May 2005, outside the timeframe of this report.
- 6 See the *Inception Report* of the project Environmental Legislation and Planning, Albania produced by JACOBS Gibb in February 2005.
- 7 Based on result of the questionnaire and interviews in March 2005.
- 8 An environmental fund has been established through Article 87 of the LEP: Income from penalties shall be used for the financing of activities such as the "elimination of pollution, rehabilitation of ecological damage, scientific research, expert work for the EIA screening process and administrative expenses related to control activities." A fund as such has not been defined, nor have further rules for its implementation been established.
- 9 The law states: "Strategies and action plans on energy, mines, industry, transport, agriculture, forests, on natural resources and mining properties management and on waste management, territory adjustment national and regional plans of urban and rural centers, industrial areas, coastal areas, tourism areas, protected areas and highly pollution and damage sensitive areas shall undergo a SEA."
- 10 See Dimovski/Glaser, 2002, *Environmental Enforcement and Compliance*, Albania, page 50.
- 11 Pursuant to Article 6.1 of the Water Resources Law (No. 8093).
- 12 UNECE Report, page 19.
- 13 UNECE Report, page 73.
- 14 In answers to the questionnaire of the author.
- 15 Most recently, in January 2005, guidance of the MoE together with the Ministry of Transport titled "On the Allowed Limits of Air Emissions from Mobile Sources" was published. The legal character of this "guidance" is unclear.
- 16 It cannot be assessed whether these parameters comply with EU standards as the decision has not been included in the Environment Compendium of Albania.
- 17 UNECE Report page 99.
- 18 *Compendium of Environmental Legislation of Albania*, MoE, March 2004, page 1. The compendium is sorted into the main chapters "Environmental Conservation" and "Environmental Protection" legislation.

Bosnia and Herzegovina

Competent authorities

Environmental competences in Bosnia and Herzegovina are shared by bodies at several administrative levels. According to the Constitution adopted in 1995, unless expressly stated otherwise, environmental policy is promulgated by the two entities that compose Bosnia and Herzegovina — the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS) — as well as the District of Brcko. The district is a territory held “in condominium” by both entities according to the Final Award arbitration decision in 1999, but its governmental authority has been delegated to a new “single, unitary, multi-ethnic, democratic government.” The District of Brcko covers an area of 208 square kilometres and has about 80,000 inhabitants.

These three governments have equal legal status in the constitutional order, and policies falling under their competence — including those dealing with the environment — are not subordinated to the state (unless expressly stated otherwise). Foreign policy is the exception. However, as a step towards enhancing inter-entity coordination, the State Law on Ministries and Other Bodies of the Administration of 2003 (BiH OG 05/03) clarified the state’s role in environmental policy.

It establishes that the Ministry of Foreign Trade and Economic Relations is responsible for defining policy, coordinating activities and harmonising plans of the entity authorities at the international level in the field of environmental protection and use of natural resources, as well as in agriculture, energy and tourism.

As stated above, after passage of the 2003 Law on the Ministries and other Administrative Bodies of Bosnia and Herzegovina, environmental competences at the state level were clarified, and were limited to basic coordination. The competent body, the State Ministry of Foreign Trade and Economic Relations, has a Sector of Natural Resources, Energy and Environmental Protection which, in turn, has three departments: the Department for Coordination of the Management of Natural Resources, the Department for Energy and the Department for Environmental Protection. The state’s Ministry of Foreign Trade and Economic Relations counts eight people dealing with environmental issues. Other bodies carrying out environmental work are the

Ministry of Foreign Affairs, the Ministry of Transport and Communication, and the Directorate for European Integration. The state can enter into international agreements, although the entities can enter into international obligations by themselves with the prior consent of BiH’s Parliamentary Assembly.

At the entity level, competences on the environment are shared differently in the different entities.

However, there have been efforts over the years to clear up the division of environmental competences and improve coordination. After the intervention of the Office of the High Representative, designated as a result of the 1995 Dayton Peace Agreement, two coordination committees were established in 1998: the Inter-entity Commission for Water, and the Environmental Steering Committee for Bosnia and Herzegovina. With support from the REC, the latter body has had a role in the approval of new environmental laws in both entities in 2002 and 2003. Both bodies have been delegated certain tasks by the entities, particularly those related to international matters and harmonisation.

To coordinate environmental policy at the state level, the National Steering Committee for Environment and Sustainable Development was established in 2002. It integrates representatives from both entities, the District of Brcko, state level institutions, as well as representatives from civil society. According to some observers,¹ although this body constitutes a step forward, a state-level environmental legal framework and a state environment agency are needed to improve coordination and legal harmonisation. The state and the entities are discussing the possibility of establishing an agency but no firm decision has been made. The project, Drafting of the Framework Environmental Law of Bosnia and Herzegovina and the Feasibility Study for Establishment of Environmental Protection Agency of Bosnia and Herzegovina, was initiated in early 2003 to assist in this process.

Current drafting challenges lay first with the development of secondary legislation to implement laws in force (to be examined below when reviewing the different environmental sectors), and second with the aforementioned establishment of an environmental protection bill at the state level. With regard to the latter, the Council of Ministers has charged the Ministry of

Foreign Trade and Economic Relations with coordinating the drafting of such a bill. Ministries of both entities and of the District of Brcko shall participate in the drafting process, as will independent experts and NGOs. The initiative to establish a state environment agency may be a significant result of this state drafting process.

There is no mention of a right to a healthy environment in the Constitution of Bosnia and Herzegovina.

Strategic documents

Plans and programmes are regarded as essential to the development of adequate laws and institutions. In BiH, they are generally developed at the state level, although approved by each entity's authorities. Progress has been made in recent years on an adequate environmental policy framework. The National Environmental Action Plan (NEAP), prepared with the support of the World Bank, was adopted at the beginning of 2003 by the entities but not by the District of Brcko.

This NEAP outlines long-term priorities and provides guidance in the drafting of laws and policies and in institution building. Some of its priorities shall be discussed below under the section on policies and recommendations. A more recent document has become the central environmental policy instrument in both entities: the Poverty Reduction Strategy Paper or Mid-term Development Strategy of Bosnia and Herzegovina (2004-2007). Adopted in February 2004, this document follows the priorities established in the NEAP, but focuses on the short term.

Other policy documents include the Mediterranean Action Plan of 1999 and the State Strategy of Solid Waste Management. The latter was adopted in 2000-2001 by both entities but not by the District of Brcko. There are plans to develop strategies for the protection of biodiversity and nature. With no new strategy on water, the entities follow the 1994 Water Management Master Plan prepared in the former Yugoslavia.

A significant document at the state level is the draft strategy for environmental protection and sustainable development, adopted by BiH's Council of Ministers and supported by the National Steering Committee for Environment and Sustainable Development. The strategy awaits parliamentary approval. Other work focuses on the development of local environmental action plans (LEAPs).

Observers believe these environmental policy documents provide a good basis for a sound environmental policy. Next should be the creation of such a policy based on current information and the establishment of a policy hierarchy.²

International agreements

BiH is an observer to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes. At the regional level in December 2004, it accepted the Convention on Cooperation for Sustainable Use and Protection of the Danube River (Sofia 1994) and ratified the Framework Agreement on the Sava River Basin.

BiH is a party, by succession, to a few air protection treaties: the Convention on Long-range Transboundary Air Pollution (accession in 1992), and one of its protocols (Protocol on Long-term Financing of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe). BiH is a party to the Vienna Convention, the Montreal Protocol for the Protection of the Ozone Layer, and the United Nations Framework Convention on Climate Change. It acceded to the last in 2000 and is currently preparing its first national report.

Bosnia and Herzegovina is a party to the Convention on Biological Diversity and the Ramsar Convention, but it has not done much to implement their provisions.

Since 2001, BiH has been a party to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal and has undertaken several measures to adopt its waste classification system and meet its reporting requirements.

Lessons learned from international assistance

Until 2001, BiH benefited from the EU PHARE Programme, which proved to be key to the development of the six environmental laws mentioned above. The European Commission in its Country Strategy for BiH underlines that assistance will now be delivered under the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) programme.

Some of these CARDS projects address specific sectors, such as waste or air monitoring, and shall be reviewed under the relevant sector headings below. But to address some of the shortcomings mentioned above (insufficient staff, administrative structure, etc.), a cross-cutting CARDS project, Support for Capacity Building for Environmental Management in Bosnia and Herzegovina (SCBEM), got under way in September 2003 to boost the human resource capacities of environmental authorities. This project works with state and entity administrations to develop environmental policies, legislation and institutions.

One of the project's initiatives has been to encourage the Ministry of Foreign Trade and Economic Relations to help develop a state level environmental policy document, which could then be fleshed out at entity

level with policies tailored to the entities' needs. This project's approach is to provide "a more rigorous analysis of options based on economic analysis and combines a participatory approach in the context of evolving democratic structures."³ It would involve stakeholders intensively.

The SCBEM project would also assist with exploring possibilities for the establishment of a state environment agency — an initiative various observers believe will be very helpful in the coherent development and implementation of environmental law in BiH. SCBEM has prepared a position paper on how to establish this agency. It recommends a step-by-step approach, starting with a flexible framework in the state's future environmental law to allow institutional responsibilities to evolve over time.⁴ According to the draft memorandum of understanding with the European Community, the future state environment agency would also bear responsibilities in the water sector, and parties would establish river authorities with legal and financial autonomy. So far, two pilot projects with water agencies for the basins of the Bosna and the Vrbas rivers are underway.⁵

As a result of a project that foresaw the creation of an "observatory" in BiH, the Association of Environmental Management may play a useful role as a centre of excellence covering economic analysis and legal drafting. This association, which was to achieve legal status soon, could receive support from foreign agencies such as the Swedish International Development Cooperation Agency (SIDA) and the World Bank.

According to a report prepared as part of the project Support for Capacity Building for Environmental Management in Bosnia and Herzegovina,⁶ the projects complement one another, particularly in the field of raising public awareness, and in creating and modernising environmental institutions. However, improve-

ments are needed in project coordination and relations with donors that finance environmental projects. Other challenges include the low capacity to deal with the modernisation of environmental institutions (lack of sufficiently qualified personnel, money, equipment and training) and duplication in the administrative structure and legislation. Finally, CARDS projects do not focus sufficiently on the use of economic instruments in environmental policy.⁷

Other international initiatives that have left an important imprint on BiH are the development of a NEAP with the support of the World Bank, the Mediterranean Action Plan prepared under the Global Environment Facility, and the State Strategy for Solid Waste Management prepared under Phare.

Legal drafting cooperation

When asked what form of legal drafting assistance was needed, on-the-spot technical assistance was the preferred option. The involvement of international experts in the drafting process — in combination with local experts — was considered positive. Among other things, it allowed the ministries to benefit from the experience and examples of environmental law drafting in other EU member states.

The Ministry of Physical Planning and Environment of FBiH (MPPE) cites as a positive case study the development of the package of six environmental laws in BiH. Some details of the drafting process are unavailable, particularly those relating to coordination between entities' ministries and the role of the Inter-entity Steering Committee for the Environment (see Box 1). It is not known how far lawyers and other ministries nor the public or NGOs have been involved in the process.

BOX 1

Step-by-step process of environmental law drafting

- Development of a model act by an International group of experts with the support of an international organisation.
- Establishment of a working group within the MPPE (local and international experts) with the financial support of an international organisation.
- Research on similar laws in EU member states (input from international experts).
- Research on EC law.
- Development of a technical draft that takes into account the model act.
- Harmonisation of local legislation (and institutional framework) to EC standards, and adjustment to the EU acquis.
- Preparation of final draft for submission to the Assembly.
- Legal drafting stages as highlighted in statements of the Chief of Cabinet of the MPPE in FBiH and in personal interview at FBiH's MPPE.

■ DISTRICT OF BRCKO

The District of Brcko, due to its size, has a simpler structure under the authority of a mayor. Most responsibilities for environmental protection remain within the Logistic Unit of the Department of Utilities, although other departments are also involved in environmental issues. According to the District of Brcko Statute, all laws and regulations from both entities shall remain in force in the district if they do not contradict the provisions of the statute and the District has not adopted its own laws.

According to the Statute of the District of Brcko, Article 13:

(1) Everyone is entitled to the enjoyment of all rights and freedoms guaranteed under the Constitution and laws of Bosnia and Herzegovina and laws of the District without discrimination of any kind.

The District of Brcko adopted a package of five environmental laws in May 2004.⁸ According to the Phase 1 report, two other laws had been under preparation: on communal waste issues and on spatial planning, but no information exists on whether they have been approved. The district is interested in learning from the experiences of the drafting processes within the entities as a way of adapting them to the district.

■ FEDERATION OF BOSNIA AND HERZEGOVINA

Environmental law making

Environmental legal set up

The Constitution of the Federation of Bosnia and Herzegovina does not contain the right to a healthy environment, but its Article 2 states that:

The Federation will ensure the application of the highest level of internationally recognised rights and freedoms provided in the documents listed in the Annex to the Constitution. In particular:

(1) All persons within the territory of the Federation shall enjoy the rights:

[...]

(o) To health.

New laws were passed in 2003 by FBiH [Law on Federal Ministries and Other Administrative Bodies in the Federation of Bosnia and Herzegovina (FBiH OG 19/2003)] which clarify the assignment of environmental responsibilities to different government bodies in this entity. However, these competences are not further

developed in by-laws or regulations, nor is there an institution to coordinate the environmental work of all these bodies.⁹

Environmental legislation drafting institutions

In FBiH, the Law on Federal Ministries and Other Administrative Bodies in the Federation of Bosnia and Herzegovina (FBiH OG 19/2003) establishes as the key ministries with environmental competences the Ministry of Physical Planning and Environment and the Ministry of Agriculture, Water Management (MPPE) and Forestry. The Ministry of Physical Planning and Environment is responsible for the preparation of environmental policy and strategy-related documents; quality standards for air, water and soil; environmental monitoring; and supervision of relevant institutions. It has three departments: the Department of Ecology and Environmental Impact Assessment; the Department of Biodiversity and Natural Ecosystems Conservation; and the Department of Protection of Air, Water, Soil and of Waste Management. In addition, other federal ministries and institutions, such as the Ministries of Energy, Mining and Industry, of Health and of Transport and Communications, deal with environmental issues. There are also institutes and federal bodies which carry out monitoring activities.

With the support from CARDS projects, an advisory committee was set up. This committee is composed of stakeholders and decision makers at ministerial and cantonal levels. The committee discusses drafts of new secondary legislation and circulates them for comment to government bodies and to project working groups in the entities.¹⁰

Environmental competences in the federation are shared among its 10 cantons. Each canton has important responsibilities related to the environment and has its own ministry of civil engineering, physical planning and environmental protection as well as a ministry of agriculture, water management and forestry. Cantonal constitutions provide for the establishment of a council of cantons to coordinate policies and activities, but there is no evidence that such a council has ever met. In addition, FBiH has 84 self-governing municipalities. They may issue activity permits and carry out inspections, the latter under the authority of the canton.

Institutional changes in the country have not been accompanied, however, by the appointment of new staff in the ministries. In FBiH's main environmental administration, there are eight staff members dealing with environmental issues. There were 26 vacant positions that could not be filled due to budgetary constraints. Insufficient qualified personnel is perceived as a barrier to the institution building process¹² and to the implementation of environmental law.

The CARDS project Functional Review of the Environmental Sector may provide useful conclusions to the improvement of the environmental administration. Its objective is to provide recommendations for the rationalisation and reorganisation of the functional competences of BiH's public administration. The final phase should have ended in April 2005, but the final report was not available at the writing of this report.

Legal drafting process and approximation strategy

Under the Dayton Agreement, all laws from the former Socialist Republic of Bosnia and Herzegovina that are not inconsistent with the 1995 Constitution may remain in force. In terms of the environment, this was particularly relevant for several years of application of the Law on Physical Planning of 1987. This law was replaced by FBiH's 2002 Law on Physical Planning (OG FBiH 52/2002) and the Law on Construction (OG FBiH 55/2002).

Largely as a result of the EU's Phare Programme, a set of new environmental laws was approved in 2003 for the federation (OG FBiH 33/2003). These laws are:

- Law on Environmental Protection;
- Law on Water Protection;
- Law on Waste Management;
- Law on Nature Protection;
- Law on Air Protection; and
- Law on the Environmental Fund.

These laws are very similar in both entities, although not identical, and reflect the goals and principles of EC environmental directives. Differences lay mainly in the allocation of responsibilities to the different public authorities in charge of environmental protection, given the different organisational structure of the two entities. Drafting of these six laws began in 1998 and mostly concluded in 2001. The entities' laws were discussed and approved by the Environmental Steering Committee for BiH, in addition to each entity's parliament.

In addition to the main package of environmental laws, other laws have been recently adopted in the federation: the Law on Forests and the Law on Seed and Seeding Material.

Environmental law drafting priorities

From a substantive perspective, it is likely that drafting priorities in BiH will evolve on the basis of priorities set in the NEAP and in the Mid-Term Development Strategy. The eight priorities identified in the NEAP are: water resource management and wastewater treatment; sustainable development in rural

areas; environmental management (information system, integral planning and education); protection of biological and landscape diversity; waste and waste management; economy and sustainable development; public health; and demining.

The deficiencies in the regulation of some of these fields were bridged by the six environmental laws approved in 2003 in FBiH. These new framework laws must be followed by by-laws and administrative measures if they are to be implemented. Drafting of sub-regulations was underway during the research of this report and some new developments shall be addressed below. There was little information about the secondary legislation that was being developed.

As stated in the Phase 1 Report, environmental legislation has yet to be developed in some fields, such as chemicals, industrial risks, and instruments which support the functioning of the market (i.e. private initiatives to improve solid waste management, etc.).

Generally, all legislation should address the clarification of roles and responsibilities in the existing legal system and enhance coordination among different bodies. More particularly, and as pointed out in the Phase 1 report, legislation should clarify the distribution of competences in the federation between cantons and the entity, and address the role of municipalities in environmental management.

Legal overview by environmental sectors

Horizontal legislation

Competent authorities

The competent authorities for drafting horizontal environmental acts are as stated above under "Environmental legislation drafting institutions."

Laws and regulations in force

FBiH adopted its Law on Environmental Protection in 2003. This legislation lays down principles of sustainable development, precaution and prevention, substitution, integration, cooperation and responsibility-sharing, public participation, access to information and the polluter-pays principle. It includes tools for environmental management such as environmental impact assessment (EIA), strategic environmental assessment (SEA) for plans and programmes, environmental permitting (permits for integrated pollution and prevention control or IPPC), major accident prevention, environmental quality standards, eco-labeling, voluntary environmental management systems and civil liability for environmental damage.

Relevant environmental provisions are also con-

tained in the Law on Physical Planning of 2002 and in the Law on Construction. They include requirements for SEA, EIA and environmental permits for new construction projects. In FBiH, some cantons have also established their own laws on environmental protection, physical planning and water.

Finally, the new Laws on the Fund on Environmental Protection (OG FBiH 33/2003) establish a fund in FBiH that may prove useful in the development and implementation of environmental law.

Status of legislation

With regard to EIA, the new laws require all the steps of this procedure, basically in line with EC legislation. However, at present, there remain several gaps in these procedures that should be addressed, such as the establishment of a list of installations that should be assessed, project-screening criteria, contents of an environmental impact study, etc. in order to be fully compliant with EC law. The new legal framework has clarified which authorities are competent in these procedures. At the cantonal level, EIA requirements follow those established in the federation's statute, and should follow the entity's future regulations.¹⁴

SEA is required for actions that involve detrimental regional impacts and regulations intended to introduce regulatory instruments for environmental protection. However, these provisions do not establish access to information and public participation procedures, which hamper their implementation and are contrary to EU legislation.

The environmental funds in FBiH became operational after the appointment of an acting manager in early 2004. There is a specific CARDS project to assist with the establishment of such funds. The project helps set priorities of the funds, and explores potential funding sources, in addition to assessing the capacity-building needs and determining managerial, administrative and financial procedures.¹⁵

Environmental law drafting in progress

Five pieces of subsidiary legislation were said to be drafted in FBiH.

Some specific regulations were being drafted by the MPPE to implement EIA procedures. The ministry was also developing laws related to inspections. According to the draft law, environmental inspectors will be centralised in FBiH to strengthen enforcement.

Obstacles, constraints, achievements and needs

No information is available on this topic.

Water quality

Competent authorities

Water management is the responsibility of the entities. Cantons in FBiH and municipalities also have competences in water management. According to the regime established by the 1998 Law on Water, water management was under the responsibility of the Ministry of Agriculture, Forestry and Water Management of FBiH. This ministry would, among other things, draw up strategies and regulations, issue permits and enforce regulations through licensing, permitting and inspections. But the new 2003 water protection legislation for FBiH has modified the institutional framework.

The present law establishes that the FBiH Ministry of Physical Planning and Environment shall develop water protection strategies and by-laws. In addition, river basin district steering committees shall be set up for each river basin district. The committees are to be composed of representatives from public authorities and civil society. But the new water law does not refer explicitly to the previous, 1998 legislation. As concerns the new water law of FBiH, "the provisions of the special regulations on water protection shall cease to be valid" once the new law enters into force (Article 60).

So, as pointed out in the Environmental Performance Review by the United Nations Economic Commission for Europe (UNECE), further specification is needed to fully implement the new law and clarify the institutional set-up.

In the federation, cantons are responsible for activities related to drinking water supply (when municipalities do not have them) and to wastewater treatment. Meanwhile, municipalities are responsible for building and operating the water supply and water treatment facilities. Finally, FBiH has public enterprises that report to the Federal Ministry of Agriculture, Forestry and Water Management. This adds a layer of complexity to BiH's water management institutional structure.

To improve coordination between the entities — particularly considering that all major rivers cross the entities' borders — the Inter-entity Commission for Water was established in 1998. It is responsible for ensuring harmonisation of regulations among other things.

Laws and regulations in force

In 2003 the federation adopted its Law on Water Protection (OG FBiH 33/2003). The law generally follows the principles of the EU Water Framework Directive. It sets provisions for water protection planning, establishes river basins and sub-basins, and determines limit values for pollution and for general water protection.

The Law on Water of 1998 is also in force. It deals with water management but presents several problems pointed out in the Phase 1 report, particularly where it falls short of EU standards.

FBiH's cantons also have their own water laws.

Status of legislation

The 2003 Law on Water Protection calls for the development of a water protection strategy covering at least 10 years as part of the NEAP. The law establishes a regime based on river basin district bodies, in line with the Water Framework Directive. It also establishes a framework for inspection systems and calls for water protection "consent" before other environmental permits are issued. However, the current legal framework is incomplete and confusing — particularly the relationship between the 1998 Water Law and the new Law on Water Protection.

Environmental law drafting in progress

As part of the state's and the entities' commitments to reorganise the water sector and adjust fully to the EU Water Framework Directive, a new water law is being drafted. With the assistance of the River Basin Management Project (Second Phase), consultations began in 2003 and ended with the preparation of a draft in October 2004. According to a February 2005 EU report, after additional consultations the new, harmonised water law will be nearly ready.

Furthermore, drafts of four subsidiary regulations are in process in FBiH. They deal with protection of water against pollution by nitrates, establishment of water protection areas and sanitary zones and water permitting.

Obstacles, constraints, achievements and needs

As concerns the content of the water legislation, it has been recommended that the ministries overseeing environment and water cooperate on the establishment of standards for water quality consistent with international norms, develop water protection strategies, and, once river authorities are established, develop plans for river basin management. A new water law should clarify the division of responsibilities and adjust fully to EC law. Observers believe a state water law should be adopted.¹⁷

Air quality

Competent authorities

Air quality management is under the responsibility of the Ministry of Physical Planning and Environment. Some cantons in FBiH also have competence in this field.

Laws and regulations in force

As part of the new package of environmental laws, FBiH adopted the Law on Air Protection of the Federation of Bosnia and Herzegovina (OG FBiH 33/2003). Some cantons in the federation have their own air quality legislation. Eight new regulations are in force in accordance with the provisions of the Law on Air Protection.

Status of legislation

The Law on Air Protection follows EC directives and has a broad scope. It foresees the establishment of a federal air quality policy covering at least 10 years, sets air quality standards and emission limit values, requires monitoring and public information, and foresees inspections and penalties for the infringement of emission limits.

This law provides a framework which requires extensive development through by-laws or administrative measures. It should determine air quality and emission limits and targets, and regulate special emission sources (households, fuels, combustion plants and other industrial plants, waste incineration plants, motor vehicles, sulphur in fuels, VOCs and ozone-depleting substances). An FBiH ministry shall publish annual emission inventories for at least 10 air pollutants, and shall maintain a database on air quality.

Environmental law drafting in progress

There are drafts of two new by-laws at the federation level dealing with protection of the ozone layer and temporary infringements of emission limit values from installations and incinerators using solid fuel. There was no further information on other air-related legislation in FBiH, revealing a significant regulatory gap given that all quantitative parameters and procedural aspects need to be established in secondary legislation.

Obstacles, constraints, achievements and needs

Although there are some broad objectives in the NEAP and in the Mid-term Development Strategy, a proper air management policy should be developed. Given the amount of work, priorities should be established. Special emphasis should be given to monitoring and enhancing coordination among competent bodies.

Monitoring has been highlighted as a central aspect of environmental management in general, and of air quality in particular. However, there is yet no monitoring system in place. Data on emissions and on industries emitting air pollutants is inadequate, and there is no coordination among the different institutions gathering data. Two CARDS projects aim to enhance environmental monitoring.

A more general project, Development of a National Environmental Monitoring System, got under way in October 2003 to bring the national system in line with requirements of the European Environment Information and Observation Network (EIONET). Another project started in February 2004: Support for Air Monitoring. It is designed to help reinforce data collection on emissions, and aid in the design of an agreed statistical system for emissions that allows for international reporting.

Nature protection

Competent authorities

FBiH's Ministry of Physical Planning and Environment is responsible for nature protection, including that of protected areas. But the Ministry on Agriculture, Water Management and Forestry also has competences in this field, including the management of agricultural land and pastures, forests and water ecosystems, and, as does the MPPE, protected areas. It is not clear how the ministries share responsibilities with regard to these areas. Cantonal ministries in the federation also have responsibilities in these spheres.

Forestry is managed by public enterprises.

Laws and regulations in force

FBiH passed its Law on Nature Protection in 2003 (OG FBiH 33/2003). In addition, it adopted a new Law on Forests (OG FBiH 20/2002 and 29/2003) and a Law on Seed and Seeding Material (OG FBiH 55/2001).

The new Law on Fund on Environmental Protection (OG FBiH 33/2003) also relates to nature conservation.

Status of legislation

The Law on Nature Protection is a framework law. It envisages the drafting of a Nature Protection Strategy for FBiH, and the creation of an inter-entity body which should be responsible for harmonising the entities' strategies, establishing a "red list" for Bosnia and Herzegovina, act as an advisory body to the competent ministries, and create guidelines for coordination and cooperation concerning transboundary nature protection areas. The law has provisions on the protection of landscape, wild animals and plants, and habitats, and it envisages the creation of areas of protection that may be designated under the EC's Natura 2000 Programme.

This law also envisages that environmental protection activities shall be financed by the environmental fund. Although some funding may come from other sources, the fact that fund is not operational means little can be done to carry out the laws' objectives.

No further information has been obtained on the implementation of nature protection laws.

Environmental law drafting in progress

In FBiH five by-laws were being drafted at the time of this writing; the drafts dealt with monitoring and information systems, methodology for preparing management plans for protected areas, rules of intentional keeping and killing of protected animals, and access to protected areas.

Obstacles, constraints, achievements and needs

A significant amount of legislation has been drafted in recent years. Efforts should focus on strategies and

plans for developing national biodiversity and forestry management and on accelerating the drafting of by-laws, particularly those related to forestry and environmental protection.

Waste management

Competent authorities

Responsibility for waste management falls mainly on FBiH's Ministry of Physical Planning and Environment, although in the federation cantons are also competent in the matter. Local authorities, through municipal enterprises, are in charge of collection, transport and disposal of municipal waste. The FBiH Ministry of Health intervenes in the management of medical and pharmaceutical waste.

Laws and regulations in force

After the approval of new Law on Waste Management in 2003 (OG FBiH 33/2003), FBiH had a proper legal framework, although it still needed to be developed through secondary legislation.

The new Law on Waste Management also addresses the transboundary movement of waste.

Status of legislation

The Law on Waste Management covers management of all but radioactive waste and transposes the main principles of EC law, although it still requires significant development to harmonise with the relevant EC waste decisions and directives (e.g. establishing a list of hazardous wastes). The waste law incorporates, among other things, the principles of prevention, precaution and polluter pays, and foresees the adoption of waste management plans at the entity and cantonal levels. It calls for the inter-entity coordination body for the environment to coordinate such plans.

FBiH adopted a Solid Waste Management Strategy, revised in 2000-2001, which was being implemented with the World Bank and the CARDS project Support for Improved Waste Management in Bosnia and Herzegovina. This project focuses on waste management planning at selected sites and the development of key policy instruments to improve the legal and business environment in the waste management sub-sector. It is expected that the project will help elaborate, in close cooperation with stakeholders, drafts of secondary waste legislation, and create municipal boards and advisory committees for waste management.

Another CARDS project supports waste recycling. This second project deals less with legal development than putting in place policy instruments and public participation procedures.

Environmental law drafting in progress

A whole set of secondary legislation is being drafted with the assistance of the CARDS project Support for Improved Waste Management, in addition to the elaboration of three management plans for selected pilot regions. Draft regulations in an advanced stage include those on healthcare waste and the transport of hazardous waste (the latter complements a new law, in process, on the transport of hazardous goods).

New work has started in the federation on the drafting of six new items of secondary legislation on, among other things, implementation of the waste catalogue. Draft by-laws in FBiH will establish rules for selective waste management, reporting by waste producers, transboundary movements of waste, management of animal waste and other non-hazardous biodegradable agriculture waste, and financial liability for closing waste dumps.

Obstacles, constraints, achievements and needs

The Mid-term Development Strategy emphasises that waste management needs to extend to mining, power and industry and not be treated as a primarily urban matter. It calls for framework laws on recycling and processing of secondary raw material and on waste exchanges.

Industrial pollution control and risk management

There is no integrated permitting system following the spirit of the IPPC Directive. A number of government bodies, supervised mainly by the Ministry of Physical Planning, are involved in the granting of licenses. Moreover, there are conflicts concerning licensing legislation in FBiH cantons: licensing of smaller installations should be done by the cantons or by the municipalities, and cantons with large industrial installations have their own environmental laws and their ministries are considered the competent licensing bodies.

This situation clashes with the position of the Ministry of Physical Planning, which sees itself as the central licensing body.

The requirements of the Seveso Directive concerning industrial risk prevention have not been transposed into domestic legislation yet.

Other environmental sectors

There is no information available on whether the state or the entities have developed any environmental legislation concerning chemicals, GMOs, noise protection and nuclear energy/radiation.

■ REPUBLIKA SRPSKA

Environmental law making

Environmental legal set-up

Environmental competences are centralised in Republika Srpska (RS), although municipalities also hold some of them.

The Constitution of the Republika Srpska recognises the right to a healthy environment in its Article 35:

Everyone shall have the right to a healthy environment. Everyone shall be bound, in accordance with law and within his possibilities, to protect and improve the environment.

New laws passed in 2002 by the Republika Srpska [Law on Ministries in Republika Srpska (OG RS 70/2002)] assign environmental responsibilities to different government bodies. However, these competences are not further developed in by-laws or regulations, nor is there an institution to coordinate the environmental work of all these bodies.

Environmental legislation drafting institutions

Republika Srpska has established a central environmental administration. According to the Law on Ministries in Republika Srpska (OG RS 70/2002), its main bodies are the Ministry of Physical Planning, Civil Engineering and Ecology, and the Ministry of Agriculture, Forestry and Water Management. Other ministries with environmental competences include the Ministry of Health and Social Welfare, the Ministry of Economy and the Ministry of Energy and Development. RS has no cantons with their own competences and therefore there is less risk of overlap and duplication. It has 65 municipalities that are directly related to the entity's central bodies. Larger municipalities have units to control construction, water and waste management, and environmental inspection.

Institutional changes in the country have not been followed up by the appointment of necessary ministerial staff. In the entity's main environmental administrations there are nine staff members dealing with environmental issues. The absence of qualified personnel is considered a barrier to the institution-building process and to the implementation of environmental law.

The CARDS project Functional Review of the Environmental Sector may provide guidance for improvements to the environmental administration. The project aims to provide recommendations for the rationalisation and reorganisation of the functional competences of BiH's public administration.

Legal drafting process and approximation strategy

As mentioned under in the section on FBiH, under the Dayton Agreement, all laws from the former Socialist Republic of Bosnia and Herzegovina that are not inconsistent with the 1995 Constitution may remain in force. In terms of the environment, this was particularly relevant for several years of application of the Law on Physical Planning of 1987. This law was replaced by Republika Srpska's 1996 Law on Physical Planning, amended several times and consolidated in 2002 (OG RS 84/02).

As in FBiH, the PHARE programme helped usher in a set of new environmental laws, approved in 2002 (OG RS 50, 51 and 53/2002). These laws are the :

- Law on Environmental Protection;
- Law on Water Protection;
- Law on Waste Management;
- Law on Nature Protection;
- Law on Air Protection; and
- Law on the Environmental Fund.

In addition to the main package of environmental laws (see FBiH section for drafting dates), other laws adopted recently in RS include the Law on Agriculture, the Law on Agricultural Land, the Law on Hunting and the Law on Forests.

Environmental law drafting priorities

The six framework environmental laws were approved in 2002 and 2003 in the RS. These new laws need by-laws and administrative measures for implementation. Drafting of sub-regulations was underway at the time of this research and some new developments shall be addressed below. There was little information about the secondary legislation under development, but to give an idea of the magnitude of this task, the Phase 1 report indicated that at the end of 2002, based on the six environmental laws, Republic Srpska had begun to prepare approximately 90 implementing regulations.

As stated in the section on FBiH, new fields where environmental legislation needs to be developed include: chemicals, industrial risks, and instruments which support the functioning of the market.

RS legislation should address the same issues as in FBiH.

Legal overview by environmental sectors

Horizontal legislation

Competent authorities

The competent authorities for drafting horizontal environmental legal acts are as stated above under FBiH.

Laws and regulations in force

The RS adopted its Law on Environmental Protection in 2002. It lays down the same principles and tools for environmental management as the equivalent law in FBiH (see above).

Relevant environmental provisions are also contained in the Law on Physical Planning of 1996, last amended in 2002. It includes requirements for strategic environmental assessment, EIA and environmental permits for new construction.

The Law on Environmental Protection Funds (OG RS 51/2002) establishes funds in the RS which may prove to be useful to the development and implementation of environmental law.

Status of legislation

With regard to EIA, the new law basically follows EC legislation. But as with the same law in FBiH, there remain several gaps in these procedures that should be addressed: a list of installations needing assessment, project-screening criteria, contents of EIAs, etc. The new legal framework has clarified competent authorities for these procedures.

SEA is required for activities incurring detrimental regional impacts and regulations that introduce regulatory instruments for environmental protection. However, these provisions do not establish access to information and public participation procedures, contrary to EU legislation.

As in FBiH, RS has no environmental fund, although a CARDS project is helping with the establishment of such funds. The project helps to set priorities for the fund, while exploring potential funding sources and capacity-building needs and determining the managerial, administrative and financial procedures.²⁵

Environmental law drafting in progress

In RS, specific regulations are being drafted by the entity's Ministry of Physical Planning, Civil Engineering and Ecology (MPPCEE) to implement EIA procedures. It is also developing laws related to inspections. According to the draft law, environmental inspectors will be centralised in RS to strengthen enforcement.

Obstacles, constraints, achievements and needs

No information is available on this topic.

Water quality

Competent authorities

The 2002 Law on Water Protection for RS has modified the institutional framework. Water management is the responsibility of the entity's ministries. Municipalities also have competences in water management.

The law states that the MPPCEE shall develop water protection strategies and by-laws. In addition, each river basin district should have a river basin district steering committee composed of representatives from administration and civil society. In RS, a special organisation for water management and protection of river basins should be established.

In RS, the Ministry of Agriculture, Forestry and Water Management has a Directorate for Waters, which, through its field units, acts as a water policy implementation agency.

As pointed out in the UNECE Environmental Performance Review, further specification is needed to fully implement the new water law and clarify the institutional set-up.

In RS, municipalities are responsible for building and operating water supply and water treatment facilities.

As mentioned under the section on FBiH, the Inter-entity Commission for Water is responsible for ensuring the harmonisation of regulations and water quality.

Laws and regulations in force

Republika Srpska adopted the Law on Water Protection (OG RS 53/2002) in 2002. The RS law generally follows the principles of the EU Water Framework Directive. It sets provisions for water protection planning, establishes river basins and sub-basins, and determines limit values for pollution and for general water protection.

The Law on Water of 1998, also in force, deals with water management but has several problems, as underlined in the Phase 1 report, particularly where it falls short of EU standards.

Status of legislation

As in FBiH, the 2002 Law on Water Protection calls for the development of a 10-year water protection strategy as part of the National Environmental Action Plan. The law establishes a regime based on river basin district bodies, in line with the Water Framework Directive. It also establishes a framework for inspection systems and calls for water protection “consent” before other environmental permits are issued. However, the current legal framework is incomplete and confusing — particularly the relationship between the 1998 Water Law and the new Law on Water Protection.

Environmental law drafting in progress

As part of the state's and the entities' commitments to reorganise the water sector and adjust fully to the EU Water Framework Directive, a new water law is being drafted. As in FBiH, with the assistance of the River Basin Management Project (Second Phase), consulta-

tions began in 2003 and ended with the preparation of a draft in October 2004. According to an EU February 2005 report, after additional consultations the new, harmonised water law will be nearly ready.²⁶

Obstacles, constraints, achievements and needs

As in FBiH, it has been recommended that the environment and water ministries cooperate to establish standards for water quality consistent with international norms, develop water protection strategies, and, once river authorities have been established, develop plans for river basin management. A new water law — preferably at the state level — should clarify relevant competences and adjust fully to EC law.²⁷

Air quality

Competent authorities

Air quality management is under the responsibility of the RS Ministry of Physical Planning, Civil Engineering and Ecology.

Laws and regulations in force

As part of the new package of environmental laws, RS adopted the Law on Air Protection of Republika Srpska (OG RS 53/2002). Seven new regulations are in force in accordance with the provisions of the Law on Air Protection.

Status of legislation

The new Law on Air follows EC directives and has a broad scope, as in FBiH. It foresees the establishment of an RS Air Quality Policy valid for at least 10 years. It sets air-quality standards and emission limit values, requires monitoring and public information, and foresees inspections and penalties for the infringement of emission limits.

The RS law provides the same sort of framework as the FBiH law. It requires extensive development through by-laws or administrative measures. It should also determine air quality and emission limits and targets, and regulate special emission sources (households, fuels, combustion plants and other industrial plants, waste incineration plants, motor vehicles, sulphur in fuels, VOCs and ozone-depleting substances). An RS ministry will publish annual emission inventories for at least 10 air pollutants and will maintain a database on air quality.

Environmental law drafting in progress

There is no information on other air related legislation in RS. Quantitative parameters and procedural aspects need to be established in secondary legislation.

Obstacles, constraints, achievement and needs

Although there are some broad objectives in the NEAP and in the Mid-term Development Strategy, a proper air management policy needs to be developed, as in FBiH. Priorities should be established, with emphasis on monitoring and enhancing coordination among competent bodies.²⁸

As in FBiH, no monitoring system is in place, and there is inadequate data on emissions and on industries emitting air pollutants. Two special CARDS projects dedicated to these issues will help both RS and FBiH.

Nature protection

Competent authorities

The MPPCEE is responsible for nature preservation, including protected areas. But the Ministry of Agriculture, Water Management and Forestry also has competences in this field. It is responsible for the management of agricultural land, forests and water ecosystems, including protected areas. It is not clear how ministries share responsibilities with regard to these areas, particularly national parks.

Forestry is managed in RS by public enterprises.

Laws and regulations in force

RS passed its Law on Nature Protection in 2002 (OG RS 50/2002). It has also adopted a new Law on Forests (OG RS 66/2003) and a Law on Hunting (OG RS 4/2002).

The new Law on Fund for Environmental Protection (OG RS 51/2002) has bearing on nature conservation, as do the:

- Law on Plant Protection (OG RS 13/1997)
- Law on Seeds and Seeding Material (OG RS 13/1997); and
- Law on National Parks (OG RS 21/1996).

Status of legislation

The Law on Nature Protection is a framework law. It envisages the drafting of a Nature Protection Strategy for RS, and the creation of an inter-entity body which should be responsible for harmonising the entities' strategies, establishing a "red list" for Bosnia and Herzegovina, act as an advisory body to the competent ministries, and create guidelines for coordination of transboundary nature protection areas. The law deals with the protection of landscapes, wild animals and plants, and habitats, and intends to create areas of protection that may be designated under EC's Natura 2000 Programme.

Environmental law drafting in progress

No information is available on this topic.

Obstacles, constraints, achievement and needs

Mirroring the situation in FBiH, a significant amount of legislation has been drafted in RS in recent years. Efforts should focus on strategies and plans for developing national biodiversity and forestry management and on accelerating the drafting of by-laws, particularly those on forestry and environmental protection.

Waste management

Competent authorities

Responsibility for waste management falls mainly on the MPPCEE. Local authorities, through municipal enterprises, collect, transport and dispose of municipal waste. The RS Ministry of Health manages medical and pharmaceutical waste.

Laws and regulations in force

With approval of the new Law on Waste Management in 2002 (OG RS 51/2002), RS had a proper legal framework. It needs to be developed, however, through secondary legislation.

Status of legislation

As in FBiH, RS's Law on Waste Management covers management of all but radioactive waste and transposes the main principles of EC law, although it still requires significant development to harmonise with the relevant EC waste decisions and directives (e.g., establishing a list of hazardous wastes). The waste law incorporates, among other things, the principles of prevention, precaution and polluter pays, and foresees the adoption of waste management plans at the entity and cantonal levels. It calls for the inter-entity coordination body for the environment to coordinate such plans.

RS adopted a Solid Waste Management Strategy, revised in 2000-2001, and implemented with the World Bank and the CARDS project Support for Improved Waste Management in Bosnia and Herzegovina. This project is described in the section on FBiH, as is another CARDS project to support waste recycling.³⁰

Environmental law drafting in progress

A whole set of secondary legislation is being drafted with the assistance of the CARDS project Support for Improved Waste Management. This project benefits RS in the same way as FBiH, and is described in that section.

Work has started in RS on draft laws concerning a waste catalogue.

Obstacles, constraints, achievement and needs

The Mid-term Development Strategy emphasises that waste management needs to be extended to min-

ing, power and industry and not treated primarily as an urban matter. It calls for framework laws on recycling and processing of secondary raw material and on waste exchanges.³¹

Industrial pollution control and risk management

There is no integrated permitting system that follows the spirit of the IPPC Directive. A number of government bodies under the MPPCEE are involved in the granting of licenses.

In RS, municipalities handle licensing of smaller installations.³²

The requirements of the Seveso Directive concerning industrial risk prevention have not yet been transposed into domestic legislation.

Other environmental sectors

In neither RS or FBiH is there information on whether the state or the entities have developed any environmental legislation concerning chemicals, GMOs, noise protection and nuclear energy/radiation.

Conclusions and recommendations

In recent years, significant progress has taken place in BiH on a harmonised framework of environmental legislation and to rationalise the institutional structure. Although we are talking about two separate entities, some major conclusions can be formulated that apply to both.

More powers should be given to state institutions, and not only on issues related to international cooperation and assistance. In general, they include matters of country-wide relevance for Bosnia and Herzegovina, e.g. water management, air pollution and nature conservation.

As pointed out by the project Support for Capacity Building for Environmental Management (SCBEM), the following fundamental institutional and legal problems need to be addressed:³³

- dual sets of environmental framework legislation at entity level; no state framework law; and limited implementing legislation;
- dual sets of institutions at the entity level having responsibility for the environment; limited responsibilities at the state level, and fragmented responsibilities between entity and local levels; and
- very weak institutional capacity at all levels;

Special attention also needs to be paid to the following general concerns:

- Insufficient development of environmental policy. It is necessary to set clear goals and develop more specific guidelines for all sectors of environmental management. A good example of this shortcoming is the lack of water management policy in the entities.
- Complex administrative structure. This leads to a fragmentation of the regulatory system and duplication and overlap of environmental laws and institutions, making these mechanisms less efficient. Better coordination of environmental competences is needed. There have been efforts to improve coordination through inter-entity bodies, harmonisation at entity-level of new environmental legislation, and the drafting of some basic, state-level environmental laws (including one foreseeing a state environmental protection agency). Structured cooperation must be established for environmental law drafting, currently taking shape with the existence of advisory committees in both entities and in the existence of cantonal meetings (never convened though) in FBiH.³⁴
- Weak enforcement. It is necessary to develop secondary, implementing legislation in every field, and to build up monitoring capacities. Important efforts are now devoted to drafting by-laws and regulations, but progress is slow. International aid has made monitoring a priority, but capacity building is needed for significant improvement. In particular, ministries and agencies are insufficiently staffed, and there is not enough training.
- Market mechanisms are not fully in place. Economic instruments (incentives and disincentives alike) for environmental management should be put into place and better implemented, even taking into account difficulties arising from the country's low economic development.
- Regulations on public participation should be improved, including for the EIA regime.
- IPPC has to be introduced into entity legal systems.

Related to these concerns, the following, more specific recommendations, based on the experience with the SCBEM project, should be taken into account:

1. Dual systems should be avoided where feasible and politically acceptable.
2. Assistance should be devoted to the development of documents, and technical papers. In relation to drafting new legislation, the projects should identify the minimum administrative requirements for implementing the laws at the central and local levels.
3. Capacity building should continue by incorporating stakeholders such as industry associations, chambers of commerce, NGOs, local authorities and academic institutions.

The following recommendations relate to administrative and legislative matters:

1. Staff for environmental management at state and entity levels should be increased.
2. More resources should be allocated for environmental administration.
3. A state environment agency should be created and it should play a major role in creating environmental policy in BiH.
4. New environmental legislation should be developed in accordance with monitoring and enforcing capacity.
5. Secondary legislation should be developed in accordance with the legislation adopted so far.

Information sources

A set of laws regulating the environmental field in the Federation of Bosnia and Herzegovina (FBiH) can be found in English at <www.fmpuio.gov.ba/Engleska/en/legislative.htm>. Laws in force in Republika Srpska are not available in English on the Internet.

Part of this chapter was based on responses to a questionnaire submitted to the chief of cabinet of the Ministry of Physical Planning and Environment of FBiH. A meeting was held at the same ministry on March 2, 2005.

Other sources of information were reports on environmental projects of the CARDS and the 2004 *Environmental Performance Review* for Bosnia and Herzegovina prepared by the UN Economic Commission for Europe (UNECE).

ENDNOTES

- 1 Bosnia and Herzegovina, UNECE Performance Review, p. 14.
- 2 *Mid-Term Review of the CARDS Environmental Projects*, p. 9; *EU Environmental Projects*, quarterly newsletter No. 3, February 2005, p. 2.
- 3 *Mid-Term Review of the CARDS Environmental Projects*, p. 11-12.
- 4 *EU Environmental Projects*, Quarterly Newsletter No. 3, February 2005, p. 2-3.
- 5 *Bosnia and Herzegovina, UNECE Performance Review*, p. 95-96.
- 6 *Mid-Term Review of the CARDS Environmental Projects*.
- 7 *Ibid.*, p. 20-21.
- 8 See: [//www.osce.org/publications/eea/2005/05/14176_298_en.pdf](http://www.osce.org/publications/eea/2005/05/14176_298_en.pdf).
- 9 Bosnia and Herzegovina, Environmental Performance Review no. 20, United Nations 2004, at 14-15 (UNECE Performance Review); *Assessing Environmental Law Drafting Needs in South Eastern Europe: REREP 1.3, Phase 1 report*, Regional Environmental Center for Central and Eastern Europe 2003, p. 42.
- 10 *EU Environmental Projects*, Quarterly Newsletter No. 3, February 2005, p. 5-7.
- 11 *Ibid.*, p. 15.
- 12 *Support for Capacity Building for Environmental Management in Bosnia and Herzegovina, Mid-Term Review of the CARDS Environmental Projects*, Sarajevo, December 2004, p. 6-7 (Mid-Term Review of the CARDS Environmental Projects).
- 13 REC Phase One Report, p. 45.
- 14 More on EIA in "Bosnia and Herzegovina Overview of EIA system", REC for Central and Eastern Europe, November 2002.
- 15 *EU Environmental Projects*, Quarterly Newsletter No. 3, February 2005, p. 12-13.
- 16 *Ibid.*, p. 10-11.
- 17 *Ibid.*, p. 97.
- 18 Bosnia and Herzegovina, UNECE Performance Review, p. 74.
- 19 *Mid-Term Review of the CARDS Environmental Projects*, p. 17-18.
- 20 *Mid-Term Review of the CARDS Environmental Projects*, p. 13-15.
- 21 Bosnia and Herzegovina, UNECE Performance Review, p. 83.
- 22 Bosnia and Herzegovina, Environmental Performance Review no. 20, United Nations 2004, p. 14-15 (UNECE Performance Review); Phase 1 report, p. 42.
- 23 *Support for Capacity Building for Environmental Management in Bosnia and Herzegovina, Mid-Term Review of the CARDS Environmental Projects*, Sarajevo, December 2004, p. 6-7 (Mid-Term Review of the CARDS Environmental Projects).
- 24 REC Phase One Report, p. 45.
- 25 *EU Environmental Projects*, Quarterly Newsletter No. 3, February 2005, p. 12-13.
- 26 *Ibid.*, p. 10-11.
- 27 *Ibid.*, p. 97.
- 28 Bosnia and Herzegovina, UNECE Performance Review, p. 74.
- 29 *Mid-Term Review of the CARDS Environmental Projects*, p. 13-15.
- 30 Bosnia and Herzegovina, UNECE Performance Review, p. 83.
- 31 Bosnia and Herzegovina, UNECE Performance Review, p. 22.
- 32 *Ibid.*, p. 2.
- 33 This is a conclusion of the EU project Functional Performance Review, which was officially criticised and rejected from RS side.
- 34 *Mid-Term Review of the CARDS Environmental Projects*, p. 22-23.

Environmental law making

Environmental legal set-up

The Constitution of Croatia was adopted in 1990 and amended in 1997, 2000 and 2001. Croatia is a parliamentary democracy and the Constitution's revision of 2000 moved Croatia from a semi-presidential system to a full parliamentary system. Article 69 of the Constitution establishes that "[t]he State shall ensure conditions for a healthy environment" and that "[e]veryone shall be bound, within their powers and activities, to pay special attention to the protection of public health, nature and environment."

Croatia is a party to a large number of international treaties in the field of environmental protection, as well as bilateral treaties and declarations of environmental protection.

With regard to domestic law, there is a framework environmental protection law called the Environmental Protection Act of 1994, as amended in 1999 — Official Journal (OG) No. 82/94, 128/99, which provides general principles and objectives in line with sustainable development. Environmental protection is based on principles of prevention, conservation, replacement or substitution by other interventions, integrity, the polluter-pays principle and public participation. Government bodies shall adopt the necessary strategies, programmes and reports on the state of the environment, the establishment of environmental protection standards and other issues of environmental protection. The National Environmental Action Plan (NEAP) (OG 46/02), an implementing instrument of the National Environmental Strategy, is also based on principles of sustainable development.

Different instruments for environmental protection are in place: environmental impact assessment (EIA), environmental protection standards, environmental state monitoring, the Environmental Pollution Cadastre, the Environmental Protection Information System, provisions on liability for environmental pollution, environmental protection intervention plans and environmental inspection of the implementation of the Environmental Protection Act and regulations passed in accordance therewith.

However, there is insufficient staff to carry out

inspection duties, and enforcement levels are generally low. According to the European Commission, this situation is likely due to the lack of human and financial resources, the weakness of Croatia's legal system and judiciary, and deficiencies in the legislation.¹

Public awareness of environmental issues is growing, but public participation in decision making and public access to environmental information remain weak.

Environmental legislation drafting institutions

Responsibilities for environmental legislation drafting are shared among different administrative bodies, with strictly divided authorities. It is still difficult to adopt an integrated approach to environmental protection, although the establishment of an environment agency in June 2002 was a significant step in this direction. The main purpose of the Croatian Environment Agency is to act as a focal point for collecting and integrating environmental data at the national level, as well as maintaining an environmental database and carrying out environmental monitoring and reporting.²

The Ministry of Environmental Protection, Physical Planning and Construction (MEPPPC), established in 2000, is in charge of general environmental policy, soil, climate change, air protection, waste management, sea and coastal zone management, environmental impact assessment, environmental state monitoring and administrative control over the implementation of environmental law (environmental protection inspection).

In addition to general legal and administrative departments, the ministry has a Directorate for Environmental Protection (in charge of waste, soil, sea and the atmosphere), a Directorate for Strategic and Integration Processes in Environmental Protection (in charge of strategic environmental planning and coordination of the EU integration process), a Directorate for Physical Planning, a Directorate for Inspection, and a Directorate of Housing, Municipal Economies and Construction. The MEPPPC has no responsibilities concerning water management.

The State Institute for Nature Protection was established in 2002, although it is not yet fully operational. In April 2004 the government founded the National Council for Environmental Protection, an advisory body.

According to the European Commission, staffing levels for environmental protection are low, with a significant percentage of staff working on physical planning and construction.³ The ministry's legal department has approximately 10 lawyers.

The Act on Organisation and Field of Activities of the Ministries and Other Governmental Bodies (from 2003 and 2004) introduced some changes to the division of competences. For example, it transferred responsibilities for nature protection from the MEPPPC to the Ministry of Culture.

Other ministries competent in certain areas of environmental protection are:

- Ministry of Agriculture, Forestry, and Water Management: protection of forests and agricultural land from pollution by harmful substances and integrated water management;
- Ministry of Health and Social Welfare: protection from ionising and non-ionising radiation, protection of human life and health, protection from harmful effects of poisons, prevention of poison abuse and protection against noise;
- Ministry of Culture: protection of natural heritage and biodiversity, including GMOs;
- Ministry of the Sea, Tourism, Transport and Development: protection of the sea from pollution by ships; and
- Ministry of the Economy, Labour and Entrepreneurship: nuclear safety and chemical safety.

Legal drafting process and approximation strategy

The Republic of Croatia started the process of EU approximation earlier than the other countries of South Eastern Europe. Although the results are therefore more visible, the European Commission claims that "significant extra priority needs to be given if approximation of legislation is to be timely."⁴ Croatia signed a Stabilisation and Association Agreement with the European Communities, which came into force on February 1, 2005 (OG, International Treaties, 1/05). On June 18, 2004 Croatia became an official candidate country for EU membership, and on October 6, 2004 the European Commission promulgated the Pre-accession Strategy for the Republic of Croatia. The accession target date set by the Croatian Government is January 1, 2007. The environmental sector was included in the National Programme for Integration into the EU in 2004 for the first time.

As stated above, the 1994 Environmental Protection Act provides the legal framework for environmental protection, but, according to the European

Commission, this act needs to be further aligned with the *acquis*. More generally, all environmental sectors need to align with the *acquis*, and this needs to be done in a timely manner, particularly considering the target date for accession.

The Project Strategy for EU Environmental Law Approximation (EUROPEAID/116671/C/SV/HR) supports the MEPPPC's efforts to design and develop a Master Plan for EU Environmental Law Approximation, transposing the *acquis*, and fulfilling the obligations under the National Programme for Integration into the EU. More generally, this project also intends to strengthen the institutional framework and administrative capacity. The need to compress the approximation process given the deadline of 2007 may generate some problems.

Integration of environmental aspects into other policies is one of the basic principles of the National Environmental Strategy and of the National Environmental Action Plan of 2002. Other sectors, such as tourism, transport and energy, are to incorporate environmental protection into their basic goals, but it is unclear how these strategies will translate into practical measures. According to the European Commission, there are signs that the environment is not given due consideration in respect to other development needs. There is no national strategy for sustainable development.⁵

Croatia participates in the Regional Environmental Reconstruction Programme for South Eastern Europe (REReP) and in activities of the European Environment Agency through Community Assistance for Reconstruction Development and Stabilisation (CARDS) and in the LIFE-Third Countries programme.

Environmental law drafting priorities

One of Croatia's main drafting priorities is the amendment of the Environmental Protection Act. It is expected that the new Act will be adopted in 2006 and will be brought in line with the *acquis communautaire* of the EU. New work on this piece of legislation will also determine the overall strategy for transposition of the environmental *acquis*. Changes need to be made, especially in relation to:

- access to information, public participation in decision-making processes and access to justice in environmental issues;
- environmental impact assessment (EIA) at the project level;
- EIA relating to plans, programmes, strategies and the legislation (strategic environmental assessment);
- integrated pollution control licences for new and existing production facilities and the eco-management and audit scheme (EMAS);

BOX 1**Successful elements of the waste act drafting exercise**

- Overview of EC legislation to be harmonised with and most relevant legal requirements
- Article-by-article review of compliance of the national waste law of Croatia of 1995 with respect to its consistency with European waste legislation, rule of law compliance and legal language
- Comment on amendments made by a Croatian legal expert in light of the above
- Table of concordance including the corresponding EU legislation for each article and with alternative text proposals by the author

- environmental protection information systems; and
- environmental protection contingency plans.

In addition to the amendment of the Environmental Protection Act, new legislation needs to be drafted in all environmental sectors. A preliminary assessment by project Strategy for EU Environmental Law Approximation determines that, on average, if Croatian legislation is to adjust to the environmental acquis, approximately 70 percent of legislation still needs to be developed. In some areas, such as horizontal legislation, 100 percent of secondary legislation remains to be drafted. Waste and wastewater are priority areas.

An environmental protection report will be prepared in 2005. The report should contribute to the improvement of the environmental protection system and to more effective reporting on the state of the environment and on the results of the measures undertaken.

Although the National Committee for Drafting of the Sustainable Development Strategy was founded in January 2003, the country does not have such a strategy yet. In the Pre-accession Economic Programme 2005-2007, which was adopted by the Government of the Republic of Croatia and passed by the Croatian Parliament in November 2004, it is stated that the Sustainable Development Strategy will be developed by 2008.

Lessons learned from international assistance

A number of projects are being implemented at the moment, while another set of projects aimed at legal drafting and capacity building has been completed.⁶ Most projects are developed under the EU's CARDS programme. There are projects currently underway aimed at key environmental sectors (waste, water, nature protection),⁷ at horizontal legislation (e.g. EIA),⁸ and at capacity building and institutional strengthening (e.g. municipal environmental management).⁹ The German government supported the establishment of the Eco-Fund.

Since the questionnaire has not been returned, it is difficult to assess case studies of successful legal drafting from the perspective of the MEPPPC.¹⁰ Nevertheless, the author provided legal assistance for the drafting of the new Waste Act under the REReP programme in 2003, and a new waste act was adopted in late 2004, which seems to have taken into account some of the author's proposals and comments. This example is shown in Box 1.

Legal drafting cooperation

There is no clear information available on legal drafting cooperation with other SEE countries/entities or EU member states. However, under REReP there were sporadic, unsystematic instances of cooperation with experts from new member states.

Legal overview by environmental sectors**Horizontal legislation****Competent authorities**

Notwithstanding the responsibilities of other government bodies mentioned above, the main competence over the environment falls with the MEPPPC. For environmental impact assessment, counties and the City of Zagreb also have responsibilities, and the environmental impact of a given development and the evaluation of its feasibility shall be assessed by a commission.

Laws and regulations in force

Two basic programmatic documents were adopted in 2002: the National Environmental Strategy (OG 46/02) and the NEAP (OG 46/02). The Environment Agency was also established that year (OG 75/02). Other general environmental legislation adopted after that date include:

- Ordinance on Environmental Impact Assessment (OG 59/00, 136/04);
- Regulation on Conditions for Issuing Permits for Performing Professional Environmental Activities (OG 7/97);
- List of Legal Persons with Granted Approval for Performing Professional Environmental Activities (OG 71/05);
- Regulation on Environmental Information System (OG 74/99, 79/99);
- Act on Right to Access to Information (OG 172/03);
- Regulation on Environmental Label (OG 64/96);
- Regulation on Environmental Emission Inventory (OG 36/96);
- Instructions on the Form, the Tenor and the Manner of Keeping Records of Inspections Performed by Environmental Inspectors (OG 79/95);
- Ordinance on Awards and Prizes for Environmental Achievements (OG 26/02, 36/02);
- Ordinance on Environmental Inspector's Official Identity Card (OG 15/02).

The regulations that indirectly govern the field of air quality, based on the Standardisation Act, the Road Safety Act and the Act on Flammable Liquids and Gases are:

- Ordinance on Fuel Quality for Jet Engines (OG 79/95);
- Ordinance on Stations for the Supply of Fuel for Means of Transport (OG 93/98);
- Ordinance on Vehicle Approval/Homologation (OG 15/02, 28/03);
- Instructions on Vehicle Approval/Homologation (OG 69/98 et al);
- Ordinance on the Technical Inspection of Vehicles (OG 9/93 et al).

Status of legislation

As mentioned above, the Environmental Protection Act, last modified in 1999, and currently under revision, provides the basic legal framework, incorporating most principles of EC environmental law. The Act relates to the National Strategy, regional (county) programmes and the State of Environment Report.

EIA was first regulated in a general act that covered the basic responsibilities. Often before a location/construction permit can be granted, an EIA has to be elaborated. The Ordinance on Environmental Impact Assessment (OG 59/00, 136/04), which mostly implements EC Directive 85/337/EEC as amended by 97/11/EEC and Directive 2003/35/EC, prescribes the

obligation to make an environmental impact study for certain spatial interventions. It defines all necessary steps in the EIA process, the content of the EIA study, a list of projects subject to EIA or other forms of assessment. The ordinance is mostly compliant with Article 6 of the Aarhus Convention on public participation in specific decisions that have an impact on the environment, although current amendments to the Environmental Protection Act foresee further compliance with Aarhus.¹¹

There is no integrated permitting system (following the IPPC Directive) in place.

Regarding public participation, the country has not yet ratified the Aarhus Convention, although it is intending to. A second project to provide assistance to this end (Promoting Access to Information and Public Participation Conforming with the Aarhus Convention) should start in late 2005. Croatia has already taken steps to adjust its legislation to Aarhus obligations, most notably with its Act on Right to Access to Information (OG 172/03).

The MEPPPC passed the Ordinance on the Form, Content and Method of Keeping the Record of Achieving the Right to Access to Information and the Information Catalogue of the Ministry of Environmental Protection, Physical Planning and Construction. Regulations on EIA contain detailed provisions on public participation as a part of its procedure regulated by the Ordinance on Environmental Impact Assessment. The new Environmental Protection Act will regulate access to the judiciary in environmental issues.

With regard to strategic environmental assessment (SEA), many requirements of Directive 2001/42/EC providing for public participation with respect to the drawing up of certain plans and programmes relating to the environment and Directive 2003/35/EC amending public participation and access to justice provisions in Council Directives 85/337/EEC and 96/61/EC (IPPC Directive), have been introduced in the EIA Ordinance and in the Environmental Protection Act. However, there are some differences that still need to be addressed.

Environmental law drafting in progress

As stated above, a drafting priority is the amendment of the Environmental Protection Act, but there are also plans to draft a new Environmental Protection Act by 2006. According to the MEPPPC, future amendments should incorporate several basic EC directives:

- Council Directive 2003/4/EC on Access to Environmental Information;
- SEA Directive 2003/35/EC;
- EIA Directive 85/337/EEC as amended by 97/11/EC;
- Directive on Strategic Environmental Assessment 2001/42/EC;

- Reporting Directive 91/692/EEC; and
- Integrated Pollution Prevention and Control Directive 96/61/EC as amended by directives 2003/35/EC and 2003/87/EC.

The project EIA Guidelines and Training under the CARDS Programme is assisting the strengthening of legal, administrative and institutional frameworks for the implementation of EIA procedures according to EU standards and practices. Improvement of transparency and public participation in the EIA process is also an important objective of this project.

The project Environmental Assessment of Development Strategies under the CARDS Programme aims at strengthening the necessary framework to introduce and implement SEA according to the EU acquis.

Obstacles, constraints, achievements and needs

According to the European Commission, implementing the acquis on EIA and on SEA is a priority:

Croatia will need to ensure provisions for public participation in environmental decision making across a range of different areas, including permit procedures and the drawing up of plans in waste, air quality and water pollution by nitrates. This is likely to pose a major challenge.¹²

Water quality

Competent authorities

The primary responsibility for water management falls on the Ministry of Agriculture, Forestry and Water Management (MAFWM). This ministry is competent for national water inspection, administrative appeals, supervision of implementation of the Water Act and the Water Financing Act, and of awarding certain water rights concessions. The MEPPPC determines water policy, implements specific legislation concerning air and soil, and partially regulates municipal water utilities, but it has no authority over water management.

Other ministries also have responsibilities related to water management. In addition, government agencies and state-owned companies have specific duties. There is a National Water Council that deals with essential issues of water management such as harmonising various needs and interests. It reports to the Croatian Parliament.

Counties and local authorities also have some competences on the matter.

Laws and regulations in force

The main legal instruments remain the Water Act and the Water Management Financing Act, both from 1995 (OG 107/95). There is no information on new legislation on the matter having been passed since then.

There is a National Water Protection Plan and a

National Flood Control Plan at the state level. Counties also have their own such plans.

There is a Contingency Plan for Accidental Marine Pollution in the Republic of Croatia (OG 15/02) in force. Another water management law is the Ordinance on Beach Water Quality Standards (OG 33/96).¹³

Status of legislation

Existing water quality legislation provides a good basis for alignment with EC law, although by-laws at the local level are often missing. The European Commission considers that inventories, action programmes and designation of vulnerable areas should be ensured.¹⁴

The development of the Water Information System (WIS) was initiated in 2001, and, according to plans, should be completed by 2007. Its objectives are to systematically and in a timely manner collect, process, exchange and make available data and information to government bodies, international institutions and all interested parties. Standardisation and monitoring was accepted for financing by the EU CARDS 2002 programme.

Environmental law drafting in progress

Croatia is drawing up a Water Management Master Plan to be adopted by the Croatian Parliament that incorporates the requirements of the Water Framework Directive. It is also drawing up a River Basin Management Plan for the Danube.

Development of water law in Croatia is taking place with the assistance of the CARDS 2003 project Approximation of Water Management Legislation with EU Water Acquis. One of the current focuses of Croatia's approximation strategy is the implementation of the Urban Waste Water Treatment Directive.

Obstacles, constraints, achievements and needs

A number of by-laws regulating the development of planning documents are lacking, and legislation from local governments has not been either established or harmonised with national laws. There is still work to harmonise Croatian standards with the standards of the European Union. Although existing legislation fully accepts integrated water management in line with the Water Framework Directive, its implementation continues to take place in sectors.

Moreover, participation of relevant stakeholders in water management is still not satisfactory. The basic needs for improvement relate to capacity strengthening in the field of integrated water management (i.e. further education and training of employees at all levels).¹⁵

Croatian Waters has information on the river basins in Croatia, but the MAFWM will be responsible for the transposition and implementation of the

Water Framework Directive. For this reason, a clear division of responsibilities will have to be set between the two organs.¹⁶

According to the European Commission, in order to be aligned with the *acquis* Croatia will have to make significant investment in wastewater collection and treatment, as well as in drinking water supply.

Air quality

Competent authorities

The competent authority for air protection is the Atmosphere Protection Section of the Ministry of Environmental Protection, Physical Planning and Construction.

According to the Air Protection Act, the municipalities, cities (including Zagreb) and the counties regulate, organise, finance and upgrade the air protection activities within their administrative powers.¹⁸

Laws and regulations in force

A significant amount of legislation has been passed since 2002:

- Air Protection Act (OG 48/95, 178/04);
- Regulation on Limit Values of Pollutant Emissions from Stationary Sources into the Air (OG 140/97, 105/02, 108/03, 100/04);
- Regulation on Recommended and Limit Air Quality Values (OG 101/96, 2/97);
- Regulation on Substances Depleting the Ozone Layer (OG 7/99, 20/99);
- Programme on Air Quality Measurement in the National Air Quality Monitoring Network (OG 43/02);
- Regulation on Quality Standards for Liquid Petroleum Fuels (OG 83/02, 100/04, 117/04, 159/04);
- Regulation on Determining the Location of Stations in the State Network for Permanent Monitoring of Air Quality (OG 4/02).

Also relevant are:

- Act on the Environmental Protection and Energy Efficiency Fund (OG 07/03);
- Statute of the Environmental Protection and Energy Efficiency Fund (OG 193/03, 73/04);
- Regulation on Unit Charges, Corrective Coefficients and Detailed Criteria and Benchmarks for Determining the Special Environmental Charge for Motor Vehicles (OG 2/04);
- Regulation on Unit Charges, Corrective Coefficients and Detailed Criteria and Benchmarks for Determining the Charge for Emission into the Environ-

ment of Sulfur Oxides, in the Form of Sulphur Dioxide, and Nitric Oxides, in the Form of Nitric Dioxide (OG 71/04);

- Ordinance on the Form, Content and Method of Keeping the Register of Parties Subject to Payment of the Special Environmental Charge for Motor Vehicles (OG 44/04);
- Ordinance on the Method and Terms for Calculation and Payment of the Special Environmental Charge for Motor Vehicles (OG 20/04);
- Ordinance on the Method and Terms for Calculation and Payment of Charges for Emission into the Environment of Sulphur Oxides, in the Form of Sulphur Dioxide, and Nitric Oxides, in the Form of Nitric Dioxide (OG 95/04);
- Ordinance on the Form, Content and Method of Keeping the Register of Parties Subject to Payment of the Charge for Emissions into the Environment of Sulphur Oxides, in the Form of Sulphur Dioxide (OG 120/04);
- Ordinance on the Form, Content and Method of Keeping the Register of Parties Subject to Payment of the Charge for Emissions into the Environment of Nitric Oxides, in the Form of Nitric Dioxide (OG 120/04).

Status of legislation

The new Air Protection Act was adopted in December 2004 and most of its provisions entered into force in March 2005. This act replaces the Air Protection Act of 1995 and provides the basic legislative framework for implementing the policy on air quality protection and improvement in Croatia. It foresees the adoption of a plan for protecting and improving air quality at the national level by December 2005 and at the county level by June 2006. It also requires the adoption of secondary legislation to implement its provisions (e.g. establishment of limit values for individual pollutants and substances that deplete the ozone layer). Some of these new by-laws are to be adopted before March 2006 and should replace the current ones.

Environmental law drafting in progress

Notwithstanding the new drafting objectives mentioned above, no information has been obtained on any new law or regulation being drafted at the moment.

Obstacles, constraints, achievements and needs

There have been important efforts to align Croatian legislation with EC law, and the legal framework is rather comprehensive. However, some important gaps

remain: some directives, such as on volatile organic compounds (VOCs), have not yet been implemented, and there is no integrated permitting system (following the IPPC Directive) in place.

According to the MEPPPC, in keeping with the National Environmental Protection Strategy and the National Environmental Action Plan (OG 46/02), the following measures will be implemented in the forthcoming period:

- adoption of the Plan for Air Protection and Improvement;
- adoption of its implementing regulations;
- setting up a quality system for continuous monitoring of air quality (state network and local networks);
- categorisation of state territory according to air pollution levels;
- improvement of a national system for calculating the emissions of greenhouse gases, and establishment of a register of greenhouse gases emissions and a register of technologies for emission reduction;
- setting up the national programme for impact assessment and adaptation to climatic changes; and
- setting up a quality system for handling substances that damage the ozone layer, including their recovery, recycling and disposal.

The Regulation on Emission Limit Values requires additional revision, and new legislation is needed with regard to VOC emissions control.¹⁹

The project Strategy for EU Environmental Law Approximation considers that there is a need for a consolidated national air quality strategy, and that the approximation process should be based on it. Implementation and compliance should also be undertaken within a strategic context. The project team recommends the clustering of air directives into groups, such as emission controls, air quality standards and ozone depleting substances.

Nature protection

Competent authorities

The Law on the Structure and Competences of the Ministries and State Administrative Organisations of December 22, 2003 shifted nature protection competences from the MEPPPC to the Ministry of Culture, which is not common in EU member states.

Since 2002, the State Institute for Nature Protection has performed expert tasks in environmental protection. Public institutions were created by the Croatian government to manage national parks and nature parks.²⁰

Laws and regulations in force

The new Nature Protection Act was adopted in 2003 (OG 162/03).

Status of legislation

The Nature Protection Act regulates the system of protection and preservation of nature as a whole. It is a comprehensive piece of legislation with nearly 300 articles. It addresses physical planning, landscape protection, protection of ecosystems and the establishment of an ecological network of valuable interconnected or close natural areas, protection of species, genetic diversity, GMOs, minerals and fossils, the designation and management of protected areas and natural values, and the issuing of concessions in those areas. It also determines the inventorying and monitoring of natural values and establishes provisions on access to information and public participation, in addition to control and compliance mechanisms. The bill calls for a National Strategy and Action Plan for the Protection of Biological and Landscape Diversity of the Republic of Croatia to be adopted by the Parliament and nature protection programmes to be adopted by county assemblies.

Environmental law drafting in progress

A proposal for Natura 2000 sites should be completed by 2006. Work has also begun on a revision of the list of endangered species, and a “red book” and “red lists” are being produced.

Obstacles, constraints, achievements and needs

Most key directives on nature protection have been harmonised or are in the process of being harmonised. At least 15 ordinances and regulations are going to be completed in the near future. However, information on the Ministry of Culture’s website suggests that no new sub-legislation has been recently adopted.²¹ The European Commission has stated that implementation measures — particularly the management of protected areas — need to be strengthened.²²

Waste management

Competent authorities

The MEPPPC is responsible for waste management policy, including the development of national waste management concepts and legislation, as well as their implementation. It is also responsible for the permitting of hazardous waste activities and thermal waste management.

The MEPPPC Environmental Inspection Division is responsible for legislation enforcement. Local authorities are responsible for permitting non-

hazardous waste and municipal waste (as long as it is not hazardous) activities. In compliance with the National Waste Management Strategy, counties can cooperate on the regional level. The Croatian Environmental Protection Agency (EPA) is responsible for keeping records on waste streams. The Ministry of Health and Social Affairs is partially responsible for managing medical waste.

The Ministry of Economy, Labour and Entrepreneurship gives its opinion on the process of issuing a permit for non-hazardous wastes by the MEPPPC.²³

Laws and regulations in force

A new Waste Act (OG 178/04) was promulgated on December 16, 2004. It is complemented by other legislation adopted after 2002:

- Ordinance on Categories, Types and Classification of Waste with the Waste Catalogue and the List of Hazardous Waste (OG 50/05);
- Ordinance on the List of Legal and Natural Persons Carrying out the Activity of Export of Non-Hazardous Waste (OG 1/04);
- Regulation on Requirements for Handling Hazardous Waste (OG 32/98);
- Ordinance on Packaging Waste Handling (OG 53/96);
- Ordinance on Requirements for Handling Waste (OG 123/97, 112/01).

Also relevant are:

- Regulation on Unit Charges, Corrective Coefficients and Detailed Criteria and Benchmarks for Determination of Charges for Burdening the Environment with Waste (OG 71/04);
- Ordinance on the Method and Terms for Calculation and Payment of Charges for Burdening the Environment with Waste (OG 95/04);
- Ordinance on the Form, Content and Method of Keeping the Register of Parties Subject to Payment of the Charge for Burdening the Environment with Waste (OG 120/04).

Status of legislation

The new Waste Act defines the manner, the basic principles and the objectives of waste management, competence and responsibilities in waste management operations, conditions for waste storage, treatment and disposal facilities, information systems, transboundary waste movement, concessions and supervision of waste management.

It foresees the adoption of a waste management strategy and a waste management plan at state level, as well as waste management plans at the county and

municipal levels. In compliance with EC law, it approaches waste management through waste reduction, recovery, and its adequate disposal. It establishes a waste management information system. Currently there is a cadastre of emissions, which serves as a waste register. Information from the cadastre is available on the webpage of the MEPPPC <www.mzopu.hr>.

The Ordinance on Categories, Types and Classification of Waste with the Waste Catalogue and the List of Hazardous Waste determines waste classifications depending on the characteristics and point of origin of waste, as well as on the Waste Catalogue, the List of Hazardous Waste and Register of Transboundary Waste Movement.

According to the MEPPPC, the Ordinance on Packaging Waste Handling will be brought to an end soon and will be in compliance with Directive 94/62/EC on packaging and packaging waste. At least six or seven ordinances should be drafted to implement waste sector legislation.

Environmental law drafting in progress

Presently the competent authorities are working on the Waste Management Strategy and the Waste Management Action Plan.

Obstacles, constraints, achievements and needs

According to the European Commission, waste management is the single biggest problem in the environment sector in Croatia. Major work is needed to align domestic legislation with EU requirements, but also to effectively implement existing regulations, which involves considerable investment.²⁴

The project Strategy for EU Environmental Law Approximation produced recommendations that priority areas should be identified in the waste sector and that a comprehensive integrated strategy should be prepared for their approximation.

Waste directives should be clustered and the project team recommends that the following waste directives deserve priority attention: Waste Framework Directive, Hazardous Waste Directive, Packaging and Packaging Waste Directive, Landfill Directive and Waste Incineration Directive.

Industrial pollution control and risk management

Competent authorities

The principal competent authority for environmental protection related to industrial activities is the MEPPPC.

Laws and regulations in force

The basic instrument on the matter is the Environmental Protection Emergency Plan (OG 82/99, 86/99, 12/01). Croatia has ratified the UNECE Industrial Accidents Convention.

Also in force are:

- Fire Protection Act (OG 58/93);
- Act on Flammable Liquids and Gases (OG 108/95);
- Act on the Transport of Hazardous Substances (OG 97/93, 34/95).

Status of legislation

The Environmental Protection Emergency Plan establishes the types of risks and hazards; the procedure and measures for mitigation and elimination of direct consequences that are harmful for the environment; the entities for implementation of particular measures; and the method of harmonisation with contingency measures that are implemented under other laws.

The IPPC and Seveso directives have not been implemented, and most primary and secondary legislation on the matter must be put in place. However, the project results of the Strategy for EU Environmental Law Approximation commended the sophisticated system of accident hazard control in Croatia.

Environmental law drafting in progress

No information is available on this topic.

Obstacles, constraints, achievements and needs

According to information from the MEPPPC, the Seveso Directive is going to be incorporated into the new Environmental Protection Act, which is to be adopted in 2006. Also, for the purpose of harmonisation with the provisions of Directive 96/82 EC (Seveso II), as well as with the Convention on Transboundary Effects of Industrial Accidents and the APELL process, a new Environmental Protection Contingency Plan will be adopted.

The Strategy for EU Environmental Law Approximation project, however, recommended giving preference to the IPPC Directive over Seveso, as there are more IPPC installations and less work to be done in preparing this directive's implementation.

Chemicals and GMOs

Competent authorities

Different ministries are responsible for chemicals and GMOs, but the Ministry of the Economy, Labour and Entrepreneurship (chemicals) and the Ministry of Culture

(GMOs) are the primary bodies. The Ministry of Health and Social Welfare is also responsible for the protection of human life and health, the protection from harmful effects of poisons, and prevention of poison abuse.

Laws and regulations in force

The Act on Chemicals (OG 173/03) regulates the handling of chemicals.

According to the European Commission, legislation concerning chemicals is incomplete. Legislation previous to the Chemicals Act needs to be aligned with it. There is no register of chemicals on the market and there is no requirement to identify new chemicals. There is no legislation concerning biotechnology.²⁵

The Food Act that came into force in July 2003 regulates GMOs according to EU principles.²⁶

Status of legislation

Although GMOs are regulated rather comprehensively in the Nature Protection Act (chapter 6.3), there is still considerable secondary legislation — at least eight ordinances — to be drafted. New legislation should take into account EC law on traceability and labelling. The EC has questioned whether the new system restricting GMOs is compatible with the *acquis* on the free movement of goods.

Environmental law drafting in progress

New legislation is being drafted under which the state administration will be more appropriately organised in this area.

Obstacles, constraints, achievements and needs

The responsibilities for managing chemicals are distributed among various ministries. The legislation in force in this field leads to overlapping competences and redundant efforts in some cases.

Noise

Competent authorities

The Ministry of Health and Social Welfare is responsible for some aspects of protection against noise.

Laws and regulations in force

The Noise Protection Act was adopted on January 31, 2003. It establishes basic provisions to prevent or reduce noise and eliminate risks to human health. Some of its measures need implementing regulations (i.e. prescriptions of technical requirements to be complied by means of transport, appliances and equipment), and the act establishes that counties and municipalities shall draw up their own noise maps and

action plans. It provides for inspection mechanisms and sets fines in cases of lack of compliance for both private persons and government bodies.

There is an Ordinance on the Maximum Permitted Noise Levels in the Environment in Which People Work and Live (OG 145/04).

There is also substantial secondary legislation related to EC law regulating specific noise sources in the transport and industrial sectors, but according to the project Strategy for EU Environmental Law Approximation, 50 percent of legal drafting activities could remain.

Status of legislation

The Ordinance on the Maximum Permitted Noise Levels in the Environment in Which People Work and Live is fully aligned with EC environmental law.

The Air Traffic Act (OG 132/98) and the Ordinance on Aircraft Flights (17/00) establish noise protection areas and equivalent noise levels in air traffic.

Environmental law drafting in progress

No information is available on this topic.

Obstacles, constraints, achievements and needs

No information is available on this topic.

Nuclear safety and radiation protection

Competent authorities

The Ministry of Economy, Labour and Entrepreneurship is responsible for nuclear safety, the licensing of nuclear facilities, and the implementation of nuclear safeguards. The Ministry of Health and Social Welfare is responsible for protection from ionising and non-ionising radiation. The Act on Nuclear Safety provides for the establishment of a State Institute for Nuclear Safety. In July 2004 the Croatian Institute for Radiation Protection (CRPI) became the State Institute for Nuclear Safety.

In February 2005 the State Directorate for Nuclear Safety was founded to be the competent authority for nuclear safety. The body is in charge of nuclear material and equipment and legislation enforcement.

Laws and regulations in force

The Act on Nuclear Safety (OG 173/03) regulates safety and protective measures for using nuclear materials and specified equipment and performing nuclear activities.

Other relevant legislation includes:

- Act on Liability for Nuclear Damage (OG 143/98);
- Act on Sanitary Inspection (OG 27/99);

- Act on Protection from Natural Disasters (OG 73/97);
- Act on Transport of Hazardous Material (OG 97/93 and 151/03).

Status of legislation

The Act on Nuclear Safety replaced articles dealing with nuclear safety from two previous acts: the Act on Ionising Radiation Protection and the Safe Use of Nuclear Energy of 1984; and the Act on Ionising Radiation Protection and Safety Measures for Nuclear Plants and Facilities of 1981. The Law on Ionising Radiation Protection from 1999 (OG 27/99) replaced articles from the two aforementioned laws, but the 1999 Law was also amended in 2003 by the Act on Nuclear Safety.

Environmental law drafting in progress

A 1984 ordinance on radioactive wastes (OG 62/84) is still in force, pending the issuance of new regulations currently in draft form.

Obstacles and constraints, achievement and needs

According to the European Commission, Croatia needs to establish appropriate regulatory bodies, competent radiation protection authorities and special independent advisory committees, particularly if it is to implement correctly articles 33 to 37 of the Euratom treaty and make arrangements for emergency preparedness.²⁹

Conclusions and recommendations

According to the European Commission:

the basic elements of a legislative framework are in place to enable Croatia to pursue alignment with the acquis, although a significant increase in the priority given to environmental protection is necessary.

Significant improvements have been made in the past decade, especially in the past five years, regarding environmental legislation in Croatia. However, we must accept the above findings of the European Commission, and conclude that the shortcomings of the Croatian environmental legal regime are visible.

Generally, an integrated approach towards environmental issues should be accepted as a starting point. This approach would be first realised in the adoption of a sustainable development strategy, but it would have more practical consequences as well, including the consideration of the concentration of all water management and water protection related powers at the MEPPPC, or even taking back powers related to nature conservation from the Ministry of Culture.

There are issues of large importance that are still missing from the regulations, such as:

- IPPC (or an equivalent integrated permitting regime);
- water management issues (mostly discharges and water quality requirements);
- specific issues under nature conservation (e.g. Natura 2000, trade in endangered species, regulation of natural values of specific importance like caves, protected plants and animals, and powers possessed by nature reserve guards);
- specific issues under waste management (e.g. end-of-life vehicles, electronic and electric waste, titanium dioxide waste, PCB and PCT, batteries and accumulators, and waste oil);
- separate regulation of GMOs; and
- an Aarhus-compatible public participation regime.

These weaknesses, however, can be overcome by systematic legislative efforts that would rely more on the EuropeAid assistance programme and on REReP, the latter to be transformed into a tool more focused on actual legislative help.

Planning and financing strategies should be enhanced. Efforts should be made to integrate environmental considerations into all sectors, and implementation and enforcement need to be strengthened considerably. The European Commission is aware that compliance with EC law requires a significant increase in investment, particularly in fields such as waste management and water treatment.³⁰

In its Decision on the Principles, Priorities and Conditions Contained in the European Partnership with Croatia, the Council of the European Communities recommended in April 2004, with regard to environmental policy, to:

Develop horizontal legislation, including on environmental impact assessment and public participation.

Strengthen the capacity of national and regional inspection services and enable them to effectively enforce environmental legislation.

Adopt and start implementing a waste management plan.³¹

Information sources

The information basis for the country report on Croatia was very limited. Some new environmental legislation of Croatia can be found in English at <www.mzopu.hr>.

No answers to the questionnaire have been received by the author. A meeting took place with REC country office staff in Zagreb on February 15, 2005, and information was provided in writing directly by the Ministry of Environmental Protection, Physical Planning and Construction (MEPPPC) in late May 2005.

Other relevant sources of information provided were reports on implementation of CARDS environmental projects, and EU documents concerning Croatia's accession process.

ENDNOTES

- 1 Communication from the Commission, Opinion on Croatia's Application for Membership of the European Union, April 20, 2004 (COM(2004)257 final) ("Communication from the Commission") p. 101.
- 2 Regulation on the Establishment of the Environment Agency (OG 75/02).
- 3 Communication from the Commission, p. 100.
- 4 Communication from the Commission, p. 100.
- 5 Ibid., p. 101.
- 6 Projects already completed: CARDS 2001, Project Preparation Facility – First Phase of the National Waste Management Strategy; REReP project 1.3, Assistance in Environmental Law Drafting in SEE Countries; REReP project 1.9, Capacity Building for EU Approximation/Developing Strategy for EU Accession in Air Protection Sector in Croatia; DEPA project, Assistance for Croatia in Implementation of the Aarhus Convention; MEPPPC project, Analysis of the Draft Law on Nature Protection; REReP project 1.4, Capacity Building for EIA, SEA, EA and EMS.
- 7 CARDS 2002, Waste Management in Dalmatian Counties; CARDS 2003, Approximation of Water Management Legislation with EU Water Acquis; CARDS 2002, Capacity Building of the State Institute for Nature Protection; CARDS 2004, Capacity Building and Development of Guidelines for Implementing the Water Framework Directive.
- 8 CARDS 2003, EIA Guidelines and Training; CARDS 2003, Environmental Assessment of Development Strategies.
- 9 UNDP / CARDS 2001, Municipal Environmental Management Capacity Building and Infrastructure; CARDS 2002, Strategy and Capacity Building for Regional Development; CARDS 2002, Capacity Strengthening Measures for the Environment Agency; CARDS 2004, Support for Further Approximation with the Environmental Acquis; DG ENV, Supporting the Accession Process of the Candidate Countries and Croatia (Ref. ENV.E.1/SER/2004/0018); DG ENV, Analysis of Environmental Administrative Capacity with Particular Emphasis on Implementation and Enforcement Structures Including Resource Constraints and Practices, DG ENV, Study of Environmental, Economic and Social Benefits of Compliance with Environmental Acquis for Croatia.
- 10 For this reason it is impossible to assess a case study related to imperfect legal drafting experience, or to know anything from the MEPPPC implementation consideration for the environmental law drafting process.
- 11 Advanced International Training Programme on Environmental Impact Assessment (EIA) for South Eastern Europe, Country Report, Overview of the EIA/SEA System(s), Croatia, September-December 2004 (Overview of the EIA/SEA System(s)), p. 3.
- 12 Communication from the Commission, p. 101.
- 13 Final Report of Task 1: Implementation and Enforcement Capacities in Croatia for the Environmental Acquis, 04/08853/AL, May 2005, prepared by ECOLAS and IEEP.
- 14 Ibid., p. 101.
- 15 Statement by Ms Mojca Luksic, senior adviser, Ministry of Agriculture, Forestry and Water Management of the Republic of Croatia at the Twelfth Session of the Commission on Sustainable Development, April 19, 2004, <www.un.org/esa/sustdev/csd/csd12/statements/croatia_1904.pdf>.
- 16 Ibid., p. 101.
- 17 Communication from the Commission, p. 101.

18 Ibid., p. 101.

19 Ibid.

20 Ibid.

21 For a list of nature protection legislation, see <www.min-kulture.hr/propisi/propisi_fr.html>.

22 Communication from the Commission, p. 102.

23 Ibid., p. 101.

24 Communication from the Commission, p. 101-102.

25 Ibid., at 102.

26 Ibid., p. 101.

27 Communication from the Commission, p. 102.

28 Ibid., p. 101.

29 Ibid., at 102-103.

30 Communication from the Commission, p. 103.

31 Council Decision on the Principles, Priorities and Conditions Contained in the European Partnership with Croatia of April 20, 2004, COM(2004)275 final.

Former Yugoslav Republic of Macedonia

Environmental law making

Environmental legal set-up

Since the former Yugoslav Republic of Macedonia was also a member republic of the former Socialist Federal Republic of Yugoslavia, the background environmental legislation is identical to that of the other former Yugoslav countries and entities.

The legal system has three levels: the Constitution of 1991 at the first (i.e. highest) level, laws at the second, and sub-laws (normative acts such as decrees, regulations, decisions, instructions and orders) at the third.

The Constitution promotes environmental protection in three places:

- The protection of the environment is a fundamental value of the constitutional order (Article 8.1 item 10).
- Article 43 stipulates that everyone has the right to a healthy environment, but also that everyone is obliged to promote and protect the environment. The state is obliged to “provide conditions for the exercise of the right of citizens to a healthy environment” as one of the basic freedoms and rights.
- Article 55.3 provides for the possibility, by separate law, to restrict the freedom of the market and entrepreneurship for reasons of protection of the natural and living environment or public health.

In 1996 the Law on Environment and Nature Protection and Promotion was drafted and adopted following the example of the framework laws of the Council of Europe. This law still provides the existing legal framework for environmental protection in the former Yugoslav Republic of Macedonia. However, with the exception of a few chapters, the law is considered not to be in line with the EU *acquis communautaire*, too broad and hardly applicable.¹

Several topic-related environmental laws have been adopted by the Parliament recently (see the legal overview by sector). All these laws are (to be) complemented by sub-laws such as decrees and regulations.

Environmental legislation drafting institutions

An important step towards securing more efficient environmental protection was made in 1998 with the establishment of a separate Ministry of Environment, which was renamed the Ministry of Environment and Physical Planning (MEPP) in 2000. The MEPP, which employs some 98 permanent staff members and 41 contracted staff, consists of five departments that are referred to as “sectors,” including:

- the sector on Sustainable Development, which coordinates national environmental policy including economic instruments;
- the Macedonian Information Centre, which coordinates the National Monitoring and Data Management System;
- the sector of Spatial Planning which is in charge of the development of the National Planning Strategy;
- the sector of European Integration, competent for bilateral and multilateral cooperation with EU institutions; and
- the sector of Legislation and Standardisation, responsible for the preparation of legislation, approximation and application of environmental standards.

The last two sectors are the main departments of the MEPP responsible for the European legal integration process. The sector on EU Integration has six staff members, whereas the Legislation sector has 20, seven of which are lawyers. The Legislation sector is fully in charge of aligning national environmental legislation to the *acquis*. It leads the governmental working group No. 22 (Environment) under the approximation programme.

Annually, the MEPP prepares its own approximation work programme which defines its activities. Article 128 of the Law on Organisation and Operation of the State Administrative Bodies defines the following legal drafting related competences of the ministry:

- protection of water, soil, flora, fauna, air and the ozone layer against pollution;
- protection against noise, radiation, protection of biodiversity, geo-diversity, national parks and protected areas;

- restoration of the polluted areas of the environment;
- proposing measures for treatment of solid wastes;
- spatial planning; and
- monitoring the condition of the environment.

Some other ministries are in charge of environmentally related areas. Their respective competences are described later in the chapter.

Legal drafting process and approximation strategy

The former Yugoslav Republic of Macedonia has the relative advantage that the environmental legislative process had already started at the end of the 1990s. In recent years the legal approximation process has gained speed, and the quality of the new laws is promising.

The MEPP worked between 2002 and 2004 largely with support from the EAR project on the development of five new laws, including the Law on Environment as the new main framework law. However, as of March 2005 this law had not yet been adopted — its promulgation was expected in the summer of 2005.

A Stabilisation and Association Agreement (SAA) was signed between the EC and the former Yugoslav Republic of Macedonia in April 2001. Pursuant to Articles 103 and 68 of the SAA, the harmonisation of environmental legislation in the former Yugoslav Republic of Macedonia is an obligation of the MEPP. The cooperation priorities set by Article 108 cover all areas of the *acquis communautaire* except for genetically modified organisms (GMOs) and radiation protection. It lists one particular priority as the “continuous approximation of laws and regulations to Community standards.”

The National Environmental Action Plan (NEAP) of the former Yugoslav Republic of Macedonia covering the period 1997-2001 was developed with support from a World Bank project in 1996. Despite the fact that the plan was supposed to expire in 2001, it remains the current operative plan because the preparation of a second, updated version of the NEAP only began in 2004.

The 1996 NEAP defines areas of action, as well as short-, medium- and long-term goals and activities strategically. It does not set specific legislative goals or a legal approximation timeframe.

The development of a comprehensive national strategy for sustainable development and a corresponding action plan is planned to commence in 2005 for adoption in 2008.

In 2004 a complete Programme for Approximation of the National Legislation (PANL) was adopted and published by the government. This programme also addresses the transposition of environmental law into domestic laws. It is updated annually and serves as a control mechanism in the process of legal approxima-

tion. The large programme follows the CELEX structure,² which makes it complicated to read and understand at first sight but gives an accurate picture of the transposition of every single EU legal instrument into domestic law. Chapter 22 addresses the environmental *acquis* and is subdivided into subgroups. The MEPP is in charge of the supervision and coordination of legislation harmonisation according to instruments listed in its Chapter 22.

During the process of elaboration of the second NEAP the transposition and implementation of EU Directives as specified in the Approximation Programme shall be taken into consideration. Another main aspect that distinguishes NEAP 1 from the planned NEAP 2 is that the latter shall be drafted in light of the financial resources available for implementation of the drafted or soon to be drafted laws.

A procedural manual of the government on the legal approximation process will help the authorities involved in the law making process to do this in a uniform manner. The manual contains individual steps and activities that need to be taken by the ministries during, for example, the establishment of working groups and the manner of submitting reports.³

An Action Plan for Environmental Legislation Harmonisation has been developed to serve the needs of the MEPP as a guide to individual steps and considerations required during analysis and drafting of laws (see box 1).

The legal harmonisation process in the MEPP runs as follows: Inter-ministerial working groups for legal harmonisation, the driving force behind the approximation process, are established first. A working group usually consists of about 15 members. Within these working groups, smaller core working groups are organised with the MEPP. These core groups initiate and manage the activities, while wider working groups provide their input at longer intervals, mostly once a month.

Some 13 of these working groups still exist and accompany the implementation process, as well as the elaboration of secondary legislation in their legal fields following an internal action plan. Each working group has its own secretariat which organises working group meetings, agendas and minutes, and facilitates communication between core and wider working group members. The secretariat also keeps a record of the documents of the working groups.

Box 1 highlights the steps of the environmental law approximation process in the former Yugoslav Republic of Macedonia.

Box 2 contains aspects taken into consideration when drafting new laws.

Environmental law drafting priorities

Despite the fact that legal aspects are largely ignored in NEAP 1, it sets priorities for action:

BOX 1**Action Plan of Legal Approximation:
Stages of successfully drafted environmental legislation**

- Collection of materials (registration of all domestic legislation, EU legislation, international agreements and other documents and registration of materials and supplements)
- Selection of materials to be translated
- Registration of all domestic bodies and their competences and capacities (human and technical resources) in the environmental field
- Analysis of the EU directives (objectives, structures and best practice in EU member states)
- Gap analysis (comparative analysis, identification of problems, financial implications of new laws, institutional overlapping)
- Preparation of new draft laws (structure, identification of actor functions)
- Discussion of proposals, recommendations on revisions, and amendments of other laws, as well as administrative and institutional changes
- Distribution of draft laws to ministries and authorities for official comments
- Conduct public awareness and public participation

BOX 2**Implementation considerations when drafting legislation**

- Compare law with EU legislation (table of concordance, article-by-article comparison, status of transposition)
- Statement on compliance with EU legislation (of final draft)
- Compare law with legislation of an EU member state
- Compare law with legislation of another SEE country
- Check for consistency with domestic legislation
- Conduct public debates and workshops (in all drafting stages)

- improve air quality;
- improve water quality;
- conserve biodiversity;
- reforest and preserve existing forests; and
- strengthen the management capacity of institutions responsible for environmental monitoring and enforcing environmental legislation.⁴

Many legislative harmonisation activities have been accomplished in the past four years. Therefore the head of the legal sector rated only noise protection as a high priority for legal activities in the former Yugoslav Republic of Macedonia. According to the PANL, a noise protection law and secondary legislation on noise control are supposed to be adopted by the end of 2006. A draft law on GMOs is also still to be developed.

Most other areas are given normal priority because new primary laws in these fields already exist and now there is a need to draft secondary legislation to make the provisions fully applicable and enforceable. The new Law on Environment stipulates in Article 196.2 a deadline of one year until the secondary legislation “concerning the implementation of this law” shall be adopted. Until then the existing laws shall apply.

The new Nature Protection Law has an identical timeframe clause (one year according to Article 185) as does the new draft Water Law (Article 247) while the new Waste Law stipulates a two-year deadline (Article 146) for adoption of subsidiary legislation.

The next step is the preparation of a national programme for the adoption of the EU environmental acquis.

The NSEA shall provide a route map for the former Yugoslav Republic of Macedonia to achieve full compliance with the EU's environmental acquis.

Lessons learned from international assistance

The EU supports the former Yugoslav Republic of Macedonia in its efforts to make its economic and commercial legislation compatible with that of the EU through technical assistance for drafting new laws. The overall objective of the PHARE Environment Sector Operational Programme 1999 was “to support the country in the long process of solving its environmental problems.” From 2002 to 2004 the EAR funded the project Strengthening the Capacity of the MEPP, a key project on legal harmonisation. The first of three project components dealt with approximation of the country’s legislation with regard to EU legislation on environmental protection.

Under this project the following legal acts have been developed

- Law on Environment (framework law);
- Law on Water Management (framework law);
- Law on Waste Management (framework law);
- Law on Nature Protection (framework law); and
- related drafts for subsidiary legislation.

Air quality legislation was not included in the project’s terms of reference, as legislation in this area had been developed in 2001-2002 with the assistance of another international project, Preparation of the Air Quality Legislation (GTZ-supported). In that project two acts of secondary legislation were drafted.

The recently adopted Community Assistance for Reconstruction, Development and Stabilisation (CARDS) Environmental Programme 2005 foresees activities for further approximation of the environmental legislation, especially under economic aspects (investment needs assessment) and defining a proper time frame for the approximation process.

The preparation of a national strategy for environmental approximation (NSEA) is also planned under the CARDS 2005 project.

The head of the Legal Department, Ms Ivanova, emphasised the relevance and need for further technical assistance on the ground. Continuous support for the same international experts would benefit the quality of a legal act more than the coming and going of experts who only have time to comment on a legal draft rather than being fully integrated in the drafting process. Such a process could easily last one year for the development of a comprehensive law, such as the framework laws drafted with support from an EU project. However, the quality of EU experts and their will to work closely with local staff and experts, which is seen as a condition for successful legal drafting activities, has differed in recent projects.

Legal drafting cooperation

According to the governmental answers to the EU Questionnaire:

FYR Macedonia carries out regional cooperation as a key segment of its international political activity, through permanent strengthening of cross-border cooperation and active participation in regional initiatives and activities under the Stability Pact.⁵

Though transboundary cooperation is recognised as being of vital importance, it has been admitted that the shortage of funds undermined bilateral cooperation.

As concerns cooperation with other countries, the head of the legal department in the MEPP confirmed that several laws from other countries were analysed in the law drafting process. Laws on the environment (Bulgaria, the Czech Republic, Ireland, Poland, Slovenia, and the UK), water (Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Germany, Latvia, and Slovenia), nature protection (Bulgaria, Croatia, the Czech Republic, Denmark, Germany, Ireland, Norway, Poland and Slovenia) and waste management (Bulgaria, Croatia, the Czech Republic, Denmark, Finland, Germany, Hungary, Poland and Slovenia) were the subjects of the research.⁶

Obstacles and constraints

In the legal drafting process several obstacles and constraints have been encountered in recent years by the MEPP.

Within the legal drafting workshops held by the sub-working groups, many participants who came from other sectors and represented stakeholders lacked extensive knowledge of the requirements of the EU directives. To correct this shortcoming, the MEPP organised additional workshops at which the goals and policy background of each relevant European legal act were presented by national and international experts.

Another problem that existed — and partly remains in the water sector, for instance — was a result of the division of responsibilities among the country’s public administration bodies. Some of the bodies demonstrated resistance to the need to redefine the competences of individual bodies in the interests of establishing an integrated and coherent environmental policy.

There was an overall lack of resources for public bodies dealing with environmental issues. This shortfall was overcome by involving experts participating in projects carried out by the MEPP and bringing in other external experts.

The head of the Legal Department expressed regret over the lack of international support for drafting provisions in highly specific and technical areas, as well as the lack of local legal and technical experts on specific issues.

Despite the fact that a staff of seven lawyers in the

MEPP are involved in legal drafting processes, this is considered by the head of the department as insufficient and a main reason for further dependence on assistance from international projects. More international help has therefore been requested by the MEPP for drafting, as well for implementing, new legislation. The MEPP believes that the strengthening of the capacity of institutions in drafting and implementing legislation is a key challenge for the future, to be achieved mainly through continued training of personnel and the improved staffing of concerned administration bodies.

Legal overview by environmental sector

Horizontal legislation

Competent authorities

The competent authority on horizontal legal drafting is the MEPP, despite the fact that the Law on Local Self-Government of 2002 in Article 22.1, item 2, states that:

municipalities shall be competent for the following actions: protection of the environment, nature and space regulation; measures for the protection and prevention of water, atmosphere and land pollution; protection against noise and ionising radiation.

Laws and regulations in force

The Law on Environment and Nature Protection and Promotion remains in force. Published first in 69/96 of the *Official Gazette* (OG), it has been changed on several occasions; the consolidated text of all these changes was published in OG 13/03.

Another law relevant to environmental protection, the Law on Spatial and Urban Planning, calls for a transparent decision-making process with participation of representatives of bodies and organisations from the public concerned.

Status of legislation

The Law on Environment and Nature Protection and Promotion will be repealed soon, according to Article 199 of the new Law on Environment, once this law enters into force. To what extent other horizontal laws and provisions which may still be in force will be abrogated is not clear because there are no such clauses.

The country's environmental legislation is such that all horizontal issues are regulated in the new Environmental Law in the form of a framework law.

This law specifies some of the basic rights and obligations of the country, as well as of legal and private entities concerning the environment, as well as nature protection and improvement. It also covers the financing of activities, supervision and penalties for violations of its

provisions. The law is not comprehensive in its approach and does not regulate many issues in this highly complex area, in which around a hundred laws and subsidiary regulations, mainly inherited from former Yugoslavia, can be identified. Furthermore, the standards integrated in these laws are far from being implemented, thus becoming normatively unenforceable.

The law includes provisions not only on horizontal matters but also on industrial risk prevention and management:

- Access to Environmental Information (Article 51 ff.);
- Strategic Environmental Assessment (i.e. environmental assessment of plans and programmes) (Article 65 ff.);
- Environmental Impact Assessment — EIA (Article 76 ff.);
- Environmental Permitting and, in particular, Integrated Pollution Prevention and Control — IPPC (Article 85 ff.);
- Permits and Adjustment Plans for Existing Installations (Article 134 ff.);
- Public Participation in Environmental Decision Making (Article 17, 69, 91, 103, 136);
- Plans for Controlling Industrial Accidents (Article 145 ff.);
- Liability for Environmental Damage (Article 157 ff.); and
- Supervision and Reinforcement. (Article 170 ff.).

The Law on Environment lays the basic foundation for a modern regulatory system in the environmental sector that also transposes central EU legislation.

The permitting system to be established works with two types of permit, an “A” permit for installations based on the list of the EU IPPC Directive and a “B” permit that is applicable for smaller installations. The permitting system has been shaped following models from Sweden and Latvia.

While the A permit is granted by the MEPP, the B permit may also be given by self-government units. All activities starting after July 1, 2007 will be subject to an A permit (Article 5.17, Article 95.2) unless they are subject to a B permit as prescribed by the MEPP, pursuant to Article 122.2 of the draft law. An initial list of “B installations” has been proposed in the form of a decree by an EU project. The project also elaborated further decrees and ordinances under the new Environmental Law, such as a decree determining projects falling under EIA, a decree on EIA procedure, and a decree on permit procedural details.

The framework law does not regulate areas such as waste, water, air, chemicals, noise or nature. These are

only dealt with in the provisions regarding the content of the national and local action plans for environmental protection (articles 63 and 64) and cadastres (Article 42).

The Aarhus Convention, which was ratified by the former Yugoslav Republic of Macedonia in 1999, would also be fully transposed by the new law, while the current one provides only for a partial implementation of the convention.⁷

Environmental law drafting in progress

The new Law on Environment has been fully drafted and was submitted in late 2004 to the Parliament for adoption. The adoption was expected for the second quarter of 2005.⁸ Though this is not yet the case, one can expect that it is a mere question of weeks or months until the new law will be in place and the old one is repealed. It will then be the key instrument for environmental protection in the former Yugoslav Republic of Macedonia and therefore deserves to be described and assessed in this report.

There are no other primary laws in the drafting process in the field of horizontal legislation. However, the EAR-funded project developed some subsidiary legislation which can be adopted once the draft Law on Environment is in force. The MEPP has been drafting by-laws as well, namely on EIA, SEA and permitting/IPPC.

Obstacles, constraints, achievements and needs

According to the EAR project, the next steps to complete the framework law system are to implement a number of mandates for secondary legislation in the framework law, and to develop administrative procedures and guidelines that ensure the smooth functioning of the permitting system.⁹

Adoption of such secondary legislation is a condition for the effective functioning of the new systems established by the draft Environmental Law. A manual for practical implementation of the system for adjustment permits and adjustment plans should be further developed, including decisions on the policy objectives for the adjustment process so that municipalities involved in the permitting process know about their rights and obligations.

Water quality

Competent authorities

For the time being the main authority in charge of water management is the Water Economy Directorate within the Ministry of Agriculture, Forestry and Water Economy. The MEPP is responsible for the protection of waters from pollution. The dispersion of responsibilities goes much further since three other ministries are also involved:

- The Ministry of Transport and Communication is in charge of public water supply and wastewater treatment.

- The Ministry of Economy is in charge of dam construction and hydro-energy.
- The Ministry of Health controls drinking and bathing water quality.

The draft Law on Waters, however, calls for the MEPP to become the sole competent authority for planning, management, authorisation and drafting of water related regulations. This is not surprising since the new draft law was produced under the auspices of the MEPP.

The basic document for water management in the former Yugoslav Republic of Macedonia is the Water Management Master Plan, which is adopted by the Assembly upon proposal from the government and revised every 10 years. The proposal for this plan so far comes from the Ministry of Agriculture but shall be shifted to the competence of the MEPP. A national strategy for water is planned pursuant to the new water law draft.

Laws and regulations in force

The existing Act on Waters (OG 4/1998, 19/00, 42/05) regulates the conditions and manner of use and exploitation of water, water protection against harmful impacts, water resource protection against exhaustion and contamination, water management, sources and manner of financing water management activities, conditions and manner of water management activity performance, allowing water use under concession, international water resources and other issues of relevance with regard to the establishment of a unique water management regime in the former Yugoslav Republic of Macedonia. It also regulates the release of discharges into waters. There is no separate set of regulations for groundwater pollution, but there are legal rules for groundwater pollution.

In addition to the Law on Waters, other laws regulate water related issues such as the Law on Ohrid, Prespa and Dojran Lakes, Law on Mineral Resources (addressing geothermal and ground waters), Energy Law (protection of waters against energy facility operations), Law on Water Communities, Law on Water Management Enterprises, Law on Drinking Water Supply and Urban Wastewater Drainage, and Law on Concessions.

In addition, almost 20 subsidiary rulebooks, decisions and decrees apply in the area of water management.

Status of legislation

The existing Law on Waters addresses only the conditions and manner of use of waters, adverse effects from waters and, to some extent, the protection of waters from pollution. Aspects such as protection of waters, water quality objectives and water standards are missing from the law (though drinking water is covered). The law does not provide for specific measures to be undertaken in order to meet quality standards. In

addition, a large part of the provisions are of a very general and descriptive nature, with little practical legal relevance and without regulating legal consequences.¹⁰

Certain technical matters, however, are regulated in great detail. Despite the appropriateness of the basic approach and concept, the national water-related legislation is said to be largely ineffective, mainly because of the inconsistent institutional context and because the organisational and administrative arrangements have failed to function properly.¹¹ The MEPP therefore decided, despite the relatively recently adopted Law on Waters, not to amend it, but to draft a complete new legal act with international support.

Environmental law drafting in progress

The Law on Waters drafted under the EU project is a framework law with a specific focus on water regulating the general issues on water use, protection from pollution and pollution control, protection from adverse effects and mitigation of consequences resulting from the harmful impact of water and of water shortage, and setting a strategy and policy for water development in which general standards and requirements are incorporated.

It further provides the legal basis for adoption of sub-legislation concerning special requirements and technical standards. Water management according to the draft Law on Waters will be based on the principle of pollution prevention at the source. The draft law stipulates that the common use of water does not require a water permit, while a range of certain uses of water requires a permit (Article 29 of the Law on Water). Pollution of waters is prohibited unless a prior permit from the competent authority exceptionally allows for certain pollution under strict conditions (Article 79 ff of the water law). Also the control of discharges shall make sure that the most stringent requirement stipulated by law is met. The draft law implements the polluter pays principle (Article 212) and the principle of cost recovery (Article 206).

The draft water law has a range of references to the horizontal provisions of the Law on Environment draft, such as access to information, public participation, EIA and SEA, prevention and control of industrial accidents, and integrated permitting so that these aspects are not regulated again, eliminating the potential conflict of statutes.

The new Law on Waters is not yet in force. There is no other law in this field drafted at this stage, but it is not clear how far subsidiary legislation, necessary to fill out the framework provisions of the new draft, is currently being drafting.

Obstacles, constraints, achievements and needs

Once the Law on Waters is adopted, a modern comprehensive framework law would be in place compliant with EU requirements. This law would replace

the existing water law (see Article 250). The draft law would transpose not only the EC Water Framework Directive into domestic law, but also the other key water directives mentioned in the previous section on environmental law drafting priorities.

Since the Ministry of Agriculture, Forestry and Water Economy would lose its key competence on water management to the MEPP, it has been blocking the adoption of the new law. It remains to be seen when and if at all the new law will be adopted by Parliament in 2005.

However, being a framework law, the full transposition of the EC acquis in the field of water protection requires the adoption of several additional pieces of subsidiary legislation. It is estimated that more than 100 delegated legislative powers mentioned in the draft law should be addressed in some 10-15 regulations to be adopted over the coming years.¹² However, the law itself provides a narrow timeframe of just one year for this complex process. It also remains an open question as to which existing subsidiary legislation can be amended or needs to be repealed.

Air quality

Competent authorities

The competent authority for air protection matters is the MEPP. The Ministry of Health is responsible for the health aspects of air quality.

Laws and regulations in force

The new Law on Ambient Air Quality (OG 67/04) entered into force in June 2004. The law was drafted by the MEPP with support from GTZ. It replaced the Act on Air Protection against Pollution from 1993.

Status of legislation

The law regulates the process of adopting limit values, margins of tolerance, target values, and assessment thresholds for specific pollutants without specifying them. It provides the legal basis for the adoption of ambient air quality limits and emission limit values from stationary as well as mobile sources. A subsequent decree on ambient air quality limit values, margins of tolerance and thresholds was prepared by the MEPP, but this decree has not yet been adopted.¹³

The Law was harmonised with the provisions of the Framework Air Quality Directive (96/62/EC) and parts of other air related directives. Its provisions are based on the following principles :

- establishment, provision, promotion and enforcement of a system of measures and instruments for planning, management and control of the quality of the air in the country, compatible with the EU system;

- avoidance, prevention and reduction of harmful effects on human health and the environment as a whole;
- establishment and achievement of a satisfactory level of air quality with a set of specifications for ambient and emission standards;
- prevention or reduction of climate change inducing pollution;
- establishment, planning and development of a single air quality monitoring system and methodologies and sources of pollution on the territory of the whole country;
- establishment, planning and development of a single information system, and establishment of an inventory of polluters and provisions for public access to air quality information; and
- provision of a high quality and efficient system of inspection supervision.¹⁴

The Large Combustion Plants Directive has not been fully transposed into the country's legislation. However, the legal basis for its transposition has been stipulated in articles 8 and 9 of the Ambient Air Quality Law, which allows for the adoption of sub-laws to specify limit values for emissions from stationary sources.

Environmental law drafting in progress

The adoption of further secondary legislation based on the Law on Ambient Air Quality shall be part of the activities under the CARDS 2004 programme.¹⁵ A rulebook on Ambient Air Quality assessment is in the drafting process.

Obstacles, constraints, achievements and needs

The Law on Ambient Air Quality is another milestone of environmental framework legislation in the former Yugoslav Republic of Macedonia. Notably, it is the only primary environmental law that has not been drafted within the EU project but with support from another project. Nevertheless, the law has not only a number of internal references but also links to the new Law on Environment on horizontal matters such as EIA, SEA, prevention of accidents, access to information and, of greatest relevance, to the integrated permitting system to be established under that law. However, both laws have different definitions of the terms "installations" and "existing installations," a fact that may cause substantial difficulties to a coherent application of both laws on such a key aspect.

As long as the Law on Environment has not entered into force, the Ambient Air Quality Law cannot be applied. Additionally, a number of legal provisions are framework clauses still to be filled by subsidiary legislation, which has already been drafted but not yet adopted or still needs to be drafted.

Nature protection

Competent authorities

Pursuant to Article 133, the authority for nature preservation in the former Yugoslav Republic of Macedonia is within the competence of the MEPP. According to the new Law on Environment, a special Department for Nature shall be established as an integral body within the MEPP for the purposes of performing activities related to the management and protection of nature. A National Council for Nature Protection serves as an advisory and coordination body of the government. It has the right to give its opinion on most matters related to nature protection.

Laws and regulations in force

The new Law on Nature Protection (OG 67/04) entered into force in October 2004. Besides establishing the objectives of nature protection and defining crucial terms (48), the law proposes a comprehensive regime on nature protection consisting of general measures, measures to protect biodiversity (species, habitats and ecosystems) and proclaimed protected areas.

Moreover it establishes an administrative system of nature protection with clear rules on monitoring, record-keeping, planning, financing and supervision.

Another law in this area is the Law on Plants Protection (OG 25/98, 6/00).

Status of legislation

The Law on Nature Protection deals with all aspects of nature protection, some in detail, others in a more general manner. It serves as a legal basis for the drafting of a "red book" and a "red list" to classify species according to their degree of endangerment, as well as for the protection of the landscape or landscape diversity and fossils.

The law is a legal framework in line with relevant EU legislation, in particular the Birds and the Habitat directives. The law on nature protection is *lex specialis* to the Law on Environment, which will also be "applied on nature protection, if not otherwise regulated by this law" (Article 1.3 Law on Nature Protection). The law has some specific links to the Framework Law on Environment, such as the implementation of requirements related to impact assessment (Article 25) and access to information (Article 154).

Other references are more general "in accordance with the provisions of this and other applicable Laws" (articles 15, 16). Certain permit conditions still need to be determined by the MEPP (see articles 24-27). The law is also considered to be a framework for implementing the international agreements to which the former Yugoslav Republic of Macedonia is a party.

Environmental law drafting in progress

Although subsidiary legislation based on the Law on Nature Protection is in the drafting process, there is

no information available as to which by-laws are being drafted at present.

Obstacles, constraints, achievements and needs

The new law provides a framework for nature protection in compliance with EU requirements, but some by-laws still have to be adopted. In its final report, the EU project states:

Since the draft is framework legislation, the adoption and application of secondary legislation is crucial. Late or non-adoption of important secondary legislation is a stumbling block for good implementation. For example, if the Red Book and the Red list are not adopted, then the provision on species protection will not be applicable and a central part of nature protection will not in practice be in force. Also, regulations concerning trade in endangered species have as a precondition that the necessary list of species and procedures for permits are in place. If these provisions are not adopted, it is not possible for the customs to control and enforce the provisions.

When the secondary legislation on management plans for protected areas are in place, the development of practical management plans can start. Only when the management plans are adopted and implemented can nature protection in the sense of the new law really begin.

Waste management

The policy for waste management was defined in NEAP 1 in 1996. NEAP 1 includes a detailed analysis of the state of waste management in the former Yugoslav Republic of Macedonia at that time. NEAP 2 is expected to further develop an EU compliant approach to waste management by establishing monitoring mechanisms and making use of economic instruments. A national waste management plan is also being created. The plan is expected to be adopted in 2005.

Competent authorities

The MEPP is the competent authority on waste management and in charge of the entire authorisation scheme set up under the new waste legislation. Local authorities are responsible for municipal waste.

Laws and regulations in force

By 2004 the legislation on waste management in the former Yugoslav Republic of Macedonia was extensive. Some 18 separate laws had been passed as part of the entire legislative framework. A new Law on Waste Management (OG 68/04, 71/04) entered into force in October 2004. It replaced the old Act on Waste and the Act on Public Hygiene, Communal Solid Waste and Industrial Waste Collection and Transportation (OG 37/98) of 1998 and several other waste related laws.

The Law on Waste Management contains references

to the respective chapters in the new Law on Environment and builds upon the definitions and principles included in that law.

Status of legislation

The new waste law is a comprehensive law and serves as framework legislation for waste management. The law is based upon the principles of European waste policy, i.e. protection of the environment when managing waste, hierarchy in waste management (avoidance before re-use and recycling before disposal), precaution, proximity, polluter pays and universal service.¹⁶ It also uses the definitions applied by the corresponding EU directives.

The new Law on Waste Management introduces the governmental obligation to develop a waste management strategy for a period of 12 years determining the basic approach to all waste streams, as well as required legislative measures for its implementation. A waste management plan, to be developed every six years by the MEPP, will become the other main planning tool.

The export, import and transit of hazardous waste are regulated separately by a secondary legislation act in line with the requirements of the Basel Convention (OG 91/04).

Environmental law drafting in progress

Within the EU project, four supplementary legal enactments have been developed:

- draft Regulation on Hazardous Waste Management;
- draft Regulation on Waste Management Identification, Transportation and Reporting;
- draft Rulebook on Waste Oils; and
- draft Rulebook on PCB/PCT.

None of these subsidiary legal instruments has yet been passed.

Obstacles, constraints, achievements and needs

A gap analysis and an institutional analysis conducted in the course of the EU project showed that the problem in the waste sector is twofold: obsolete legislation and weak institutions for implementation of laws.

Before the new law was adopted, the situation in the waste sector was characterised by an overlapping of competences, resulting in either none of the competent authorities performing the functions or in each one performing the functions in its own way and in conflict with other authorities.¹⁷

The new comprehensive law can certainly be considered as a long-term programme for step-by-step implementation according to the needs and opportunities for a

clean environment and for the maintenance of cleanliness in urban and rural areas. However, a number of essential subsidiary legal acts still need to be adopted in order to make a new waste management regime function. It is necessary to supplement the draft law with sub-legislation measures in order to ensure its proper implementation. This sub-legislation covers the following topics:¹⁸

- landfills;
- construction and demolition waste;
- packaging and packaging waste;
- end-of life vehicles;
- medical and related waste;
- batteries and accumulators;
- electric and electronic devices; and
- eco-tax for municipalities.¹⁸

Industrial pollution control and risk management

Competent authorities

The MEPP is in charge of legislation on industrial risk management.

Laws and regulations in force

As described above, the IPPC Directive has been transposed into Macedonian legislation in the draft Law on Environment through the prescription of two types of IPPC permits (A and B).

The Law on Storage and Protection against Inflammable Liquids and Gases is also in force, but it dates back to former Yugoslavia and was last amended in 1993.

Status of legislation

The IPPC law requires each existing installation in the former Yugoslav Republic of Macedonia subject to the IPPC regime to develop “operational adjustment plans” to achieve compliance with IPPC requirements, including a time schedule for achieving the goals.

The MEPP is developing a decree on the determination of activities subject to an integrated environmental permit (A and B permit) and the time schedule for applying for adjustment permits with adjustment plans. An inventory for those approximately 150 installation which, because of their capacity, will be subject to an “A” permit has been prepared by the MEPP. Within the CARDS 2004 project, it is expected to identify those installations that will be subject to the “B” permit regime.

As concerns the requirements of the Seveso Directive, a specific chapter on pollution prevention and control of major accidents involving hazardous substances was introduced into the new Law on Environ-

ment (chapter XV, Article 145 ff.). In this chapter the law provides a legal basis for further sub-laws to define activities for which the operators are required to take various kinds of precautionary measures in compliance with the Seveso requirements.

Preventive actions, control measures and activities during and after an incident are all legally established in this chapter of the law.

Environmental law drafting in progress

A decree and rulebook on regulating the integrated environmental permit procedure has been drafted by the MEPP and is in the process of discussion with other ministries, the public and other stakeholders. Eventually the rulebook will be adopted by the MEPP.

Obstacles, constraints, achievement and needs

The industries which are supposed to have an IPPC permit will be intensively involved in the permitting processes. This in turn is expected to result in better understanding and management of pollution issues, as well as better cooperation with the MEPP and local environmental authorities. When the permit regime was established the economic situation of industry in the former Yugoslav Republic of Macedonia was taken into consideration so that industry will be able to comply with environmental requirements and to establish a mechanism to monitor what has been achieved.¹⁹

A brochure on IPPC was published by the MEPP under the EU project to inform industry operators and the public about the new integrated permitting regime. The brochure was accompanied by the publication of a guide on IPPC for operators.

Chemicals and GMOs

Competent authorities

Competences in the field of chemicals are not explicitly defined, but the MEPP claims responsibility for this area.

Laws and regulations in force

There exists no law on chemicals as such yet. The existing legislation regulates the management of poisons, plant protection substances, fertilisers, explosives, flammable liquids and gases, hazardous substances and products, ozone depleting substances, persistent organic pollutants, and others. Laws in place are:

- Law on Poison Production (OG of SFRY 18/76);
- Law on Trade in Poisons (OG of SFRY 43/82, 65/82, 64/85 13/91);
- Law on Precursors (OG 37/04);

- Book of Regulations on the Labelling of Poisons Placed on the Domestic Market (OG of SFRY 32/86);
- Book of Regulations setting out the Criteria for the Classification of Poisons into Groups and the Methods for determining the Level of Toxicity of Individual Substances (OG of SFRY 1/83, 79/91);
- Book of Regulations on Procedures of Destruction of Obsolete Poisons, Including Their Packaging and the Method of Their Withdrawal from the Market (OG of SFRY 7/83); and
- Book of Regulations on the Declaration of Plant Protection Chemicals (2001).

Status of legislation

It is unclear how well these laws comply with EU legislation or how well they are in harmony with each other. The new Law on Environment stipulates that

manufacturers and importers of chemical substances shall, prior to the sale or import of such substance or product, provide information on their properties and effects according to which they shall be classified, packed and labelled as prescribed by this law or the secondary legislation issued in accordance with this law (Article 27.2).

Environmental law drafting in progress

The Law on Chemicals is due in the NPA for 2007.

Preparatory activities for a new law on chemicals compliant with EU prerequisites began in November 2004 with a workshop organised within the CARDS project Assistance in Environmental Law Drafting in South Eastern Europe (second phase of the REReP 1.3 project). Such a law must be made consistent with the article of the Environmental Law mentioned above.

Further activities within the project consisted of the preparation of a *Study on the Legislative Framework of the Chemicals Regulation for the former Yugoslav Republic of Macedonia* by international experts. The study gave an overview of the current situation of chemical legislation in the country, provided a gap analysis and a set of recommendations for further development of legislation in compliance with EU requirements.

Obstacles, constraints, achievement and needs

There was no information available on this topic.

Genetically modified organisms

Competent authorities

The Veterinary Institute, which was well equipped with laboratories, is prepared to detect GMOs with personnel used to working with molecular techniques. Testing is currently done for food of animal origin mainly.

The Institute for Health Protection, which operates the Department for Environmental Health with its Sub-department for Food Control, is well equipped for chemical, microbiological and radiological screening of food, with one trained specialist.

Laws and regulations in force

There is no law covering the whole field of GMOs.

Status of legislation

A few laws already address certain GMO-related aspects. The new law on nature protection defines GMOs and provides a legal basis for further regulation in its Article 46:

- (1) A genetically modified organism shall be an organism, with the exception of human beings, in which the genetic material is modified in a way not occurring in nature — by coupling and/or by natural restructuring.
- (2) In order to prevent the negative impact of the genetically modified organisms on the conservation and the sustainable use of the biological diversity, as well as on human health and environment, measures and activities shall be implemented as stipulated by law.

The Law on Safety of Foodstuff and Related Products (OG 54/02) describes food which contains GMOs as “food produced by innovative technology not available for wider consumption.” The law prohibits the production and sale of unsafe food, but there is no direct implication that genetically modified food is considered per se as unsafe food. The new Food Law includes an obligation for testing food products for GMO presence and labelling food products in respect to the presence or absence of GMOs.

The new Law for Seed and Seedlings is harmonised to EU regulations.

Also the draft Law on Environment addresses GMOs briefly in Article 51, making it clear that access to information includes “the state of the environmental media and areas such as [...] biological and landscape diversity, including GMOs.”

Environmental law drafting in progress

During a UNEP/GEF project on Development of National Biosafety Frameworks, a National Biosafety Framework was prepared. Within the project, the MEPP also prepared the first version of a draft law on GMOs. The adoption of a law on GMOs is envisaged for 2007.

Obstacles, constraints, achievements and needs

At present the MEPP is in the process of drafting a law on GMOs without international assistance.

Noise

Competent authorities

Noise protection regulation is the competence of the MEPP.

Laws and regulations in force

The Law on Harmful Noise Prevention stems from the former Yugoslav but has been transformed into Macedonian law (OG of SFRY 21/84, 10/90 and OG 62/93). It is the main law addressing protection against noise.

Status of legislation

Though defining in general terms rights and obligations of entities and persons it lacks any sort of standard or threshold for permissible noise levels. No standard for noise sources such as vehicles, aircrafts or household appliances has been defined yet.

A Decision on Determining the Cases of and Conditions for Regarding Noise as Harmful and Disturbing to Citizens (OG 64/93) was adopted on the legal basis of the Law on Public Peace and Order Disturbance. This decision sets the maximum tolerable noise levels within houses during day and night. Permissible noise levels at working facilities have been addressed by another secondary rulebook as well.

Environmental law drafting in progress

A legal drafting working group within the MEPP has initiated and coordinates legal drafting work. The new law shall incorporate EU legislation on noise, in particular the Environmental Noise Framework Directive of 2002. A gap analysis of Macedonian legislation and the EU *acquis* has already been completed in this field.

Obstacles, constraints, achievements and needs

The existing legislation falls short of EU requirements. That is why the Law on Noise Protection and related sub-laws for noise control are due in the National Programme for Approximation (NPA) for November 2005. Noise protection is the only field considered by the MEPP as high priority for action as concerns the development of primary legislation.

Nuclear safety and radiation protection

Competent authorities

According to Article 122 of the Law on Amendment and Supplementing the Law on Public Administration Bodies, the MEPP is in charge of nuclear safety. The Ministry of Health, though, is in charge of health protection of the population against harmful effects of ionising radiation.

Laws and regulations in force

The Law on Ionising Radiation Protection and Safety (OG 48/02) is the main primary law on nuclear protection. It is complemented by two rulebooks which date back to former Yugoslavia: the Rulebook on Locations and Time Intervals for Systematic Examination of Contents of Radio Nuclides in the Environment with Early Detection and Notification of Environmental Radioactive Contamination (OG of SFRY 84/91), and the Rulebook on Maximum Limits of Environmental Radioactivity Contamination and Decontamination (OG of SFRY 8/87, 27/90).

Status of legislation

The Law on Ionising Radiation Protection and Safety is said to be harmonised largely with international safety standards as recommended by the International Atomic Energy Agency and compliant with the EU directives 96/29/Euratom and 97/43/Euratom.

The law regulates the supervision and control of all ionising radiation sources and will promote the protection of human beings and the environment against exposure to ionising radiation. A radiation safety directorate will be established that is in charge of administrative and technical matters.

Environmental law drafting in progress

Additionally, the draft Law on Environment provides for public access to information on "factors such as radiation and radioactive waste." The safety provisions of the law are also applicable to "dangers caused by ionising radiation." Article 179 of the draft Environmental Law authorises the state environmental inspectors to take measures against ionising, non-ionising and electromagnetic radiation. However, there is no reference made to the Law on Ionising Radiation Protection.

With technical support from the International Atomic Energy Agency, three additional rulebooks have been drafted to date:

- a draft Rulebook for Limitation of Exposure to Ionising Radiation, Conditions for Exposure in Special Circumstances and Carrying out Interventions in Emergency Cases;
- a draft Rulebook for the Conditions and Measures for Protection against Ionising Radiation for Performing Works with Radioactive Sources;
- a Rulebook on Conditions and Measures for Protection against Ionising Radiation in Operation of X-ray Apparatuses, Accelerators and other Devices arising from Ionising Radiation.²¹

Obstacles, constraints, achievements and needs

In order to cover the whole field, the Law on Ionising Radiation Protection and Safety foresees the draft-

ing of additional rulebooks. The by-laws, which will bring about harmonisation with the relevant EU directives, are to be adopted in 2007. Technical assistance from the International Atomic Energy Agency is expected in the preparation of the remaining document.

It is not clear to what extent the Law on Ionising Radiation Protection and Safety needs further harmonisation with the draft Law on Environment and vice versa.

Conclusions and recommendations

On the way towards legal approximation with EU environmental legislation, the former Yugoslav Republic of Macedonia has taken a big step in the last few years. A strategic document supporting this process will be NEAP 2 (when adopted), with legislative goals and approximation priorities clearly set for the future.

Once the draft Law on Environment is adopted it will have a modern framework for environmental protection largely harmonised with EU horizontal legislation. The new Law on Ambient Air Quality, the Law on Waste Management and the Law on Nature Protection are three other major steps towards a contemporary legal system in compliance with EU law. As the SAA Report 2004 states: "Adoption of these laws is important because it would be a first step towards harmonising the country's legislation with the EU *Acquis*."²²

The Law on Waters, which is likely to be adopted later this year, would provide the fifth consolidated framework law. All laws still need substantial drafting work on subsidiary legislation regulating procedural details, as well as standards, thresholds and other technical details.

This latter task encompasses the aligning of the newly drafted framework Law on Environmental Protection with the environmental *acquis*, as well as the filling in of gaps in the environmental legal regime. In this respect, the country might consider revising its drafting priorities and shifting them from noise regulation. While the setting of ambient noise quality limits is important, it is better to shift focus to the regulation of hazardous wastes or the creation of a comprehensive GMO regulatory regime.

As regards competences, the concentration of water management related powers should be considered first. A clear division of powers between the central environmental administration and the municipalities is essential, especially in horizontal issues.

A full Aarhus-compliant legal regulation of public participation is inevitable because the country has quite developed environmental laws and sub-laws.

This seems to be the main challenge in the coming years as concerns the legal drafting process; implementation is another story.

There are two notable EU financed (EAR) projects foreseen to start in 2005, both titled "Strengthening Environmental Management" and linked with the MEPP, and both will support the drafting of secondary legislation and other relevant documents.

One is focused on:

technical assistance to the MEPP in support of its EU approximation programme focusing amongst others on harmonisation of environmental legislation with the EU *Acquis*, providing training in the application of already EU aligned laws notably in the domain of environmental permitting and planning (IPPC, EIA, SEA); nature protection; water and waste management. (Reference EuroAid/119786/D/SV/MK)

The other shall provide:

technical assistance to the MEPP in the preparation of a National Strategy for Environmental Approximation (NSEA) that provides a comprehensive route-map of prioritised actions for achieving full compliance with all ten sectors of the EU environmental *acquis* covering all aspects of approximation (transposition, implementation and investment). This will involve the preparation of Directive Specific Implementation Plans for key (difficult/costly) directives and the preparation of a prioritised Sector Approximation Strategy for each sector, as well as the NSEA itself. [...] It may also include hands on assistance with legal harmonisation in select areas and provision of advice on institutional development. (Reference EuroAid/121312/D/SV/MK)

The first project is expected to commence its activities in June 2005, the second in September 2005.

The fact alone that seven lawyers are working in the MEPP is certainly a strong advantage for the harmonisation process. In contrast to other parts of SEE, where the legal drafting personnel is small and mainly technicians, in the former Yugoslav Republic of Macedonia there exists sufficient in-house legal capacity. Lawyers are assigned to the various fields of the EU *acquis* and thus highly familiar with the relevant directives and competent in their area.

Also, the methodological process of legal approximation could serve as an example for other parts of SEE, in particular as concerns the establishment of small and larger working groups in each sector, the participation of the public and review process of legal drafts, as well as the careful analysis of EU requirements and comparison of drafts with other countries' legislation.

Sources of information

Of all of South Eastern Europe, the former Yugoslav Republic of Macedonia has probably provided the most sources of information. The recent answers of the government of the former Yugoslav Republic of Macedonia to the questions of the EU Commission give a detailed overview of the status quo of the country's environmental legislation and the process of approximation.²³ These answers served as the main sources for the country report.

Secondly, an interview with the head of the Law Department in the Ministry of Environment and Physical Planning (MEPP), Jadranka Ivanova, took place in Skopje on March 8, 2005. Ms. Ivanova also provided a five-page response to the questionnaire from this project.

Furthermore, the final report of the EAR project Strengthening the Capacity of the Ministry of Environment and Physical Planning (August 2004) has been made available to the author. The report gives a good overview of legal and institutional achievements and needs. All new laws developed in the context of the project were provided to the author. However, older laws that are still partly in force were not available.

Other useful sources of information were the country's SAA report for 2004, the National Legislation Approximation Plan for 2004 and the UNECE Environmental Review of FYR Macedonia 2002.

ENDNOTES

- 1 UNECE *Environmental Performance Review of FYR Macedonia Report 2002*, page 13.
- 2 The data bank CELEX contains the complete EU law. Each document is listed according to its number, which consists of an area number and a code.
- 3 *Answers to the EU Questionnaire*, page 10.
- 4 UNECE *Environmental Performance Review of FYR Macedonia Report 2002*, page 11.
- 5 Answers to the Questionnaire for the preparation of the European Commission's Opinion on the application of the former Yugoslav Republic of Macedonia for membership into the European Union dated February 14, 2005. page 41.
- 6 Answer to the questionnaire of the author, question 8.
- 7 With the consequence that for the time being the Aarhus Convention is said to apply directly. The public relations office within the MEPP has been established as a direct consequence of the ratification. See page 55 of the *Answers to the EU Questionnaire*.
- 8 *Answers to the EU Questionnaire* (on numerous pages). According to information dated July 1, the law was adopted on June 22, 2005 by the Assembly of the former Yugoslav Republic of Macedonia. It will enter into force eight days after publication in the *Official Journal*.
- 9 EU project final report, page 68.
- 10 See Introduction of the draft water law dated July 22, 2004, page 3.
- 11 EU project final report, page 71.
- 12 EU project final report, page 74.
- 13 It was adopted in mid-2005, see OG 50/05.
- 14 Based on the explanatory introduction to the law draft.
- 15 *Answers to the EU Questionnaire*, page 70.
- 16 Meaning that waste management as a public service function can be operated either by public utilities or by private undertakings with the aim of making a profit. The law ensures that the quality of the service remains at a high level in accordance with the interests of the citizens, and that no customer can be discriminated against by waste companies or rendered unable to afford the services on account of high prices.
- 17 EU project final report, page 75.
- 18 EU project final report, page 81.
- 19 *Answers to the EU Questionnaire*, page 131.
- 20 *Answers to the EU Questionnaire*, page 158.
- 21 According to information from the head of the Legal Department.
- 22 *Former Yugoslav Republic of Macedonia Stabilisation and Association Report 2004*, Commission Staff Working Paper, COM (2004) 204 final.
- 23 *Answers to the EU Questionnaire*, see Chapter 22 Environment at: <www.sei.gov.mk/questionnaire/> (here called: *Answers to the EU Questionnaire*).

Serbia and Montenegro

Background information

In February 2003, a constitutional reform transformed the Federal Republic of Yugoslavia into the State Union of Serbia and Montenegro. This “state union” consists of two autonomous republics: the Republic of Montenegro and the Republic of Serbia. The Republic of Serbia includes two autonomous provinces: Vojvodina in the north, and Kosovo, which is currently under interim UN administration, in the south.

Serbia and Montenegro is subject to international law and possesses the power to enter into international treaties. According to the Constitutional Charter, there is a division of competences between the country and the two constituent republics. Serbia and Montenegro is organised according to a “double track” system, whereby the country and the individual republics each have their own constitutions.

As concerns environmental protection, the country itself holds the competence only for accession to and ratification of international conventions, whereas implementation is left to the constituent republics.

In order to improve the coordination of laws and policies within the state, as well as to improve full implementation of international commitments undertaken by Serbia and Montenegro, the two republican environmental ministries signed an Agreement on Cooperation on July 12, 2002. According to this agreement, the two republican ministries in charge of environmental protection coordinate their positions related to the ratification of international environmental agreements, and make mutual decision on matters such as nominations for multilateral environmental agreement (MEA) focal points.

A Coordination Body for operational activities in the field of environmental protection within the republics consisting of ministers and deputy ministers from both ministries was established to meet at least once per month, but in practice it meets on more of an ad hoc basis. The agreement provides that the Joint State-level Coordination Office (JSCO) will function as a formal state-level focal point on a rotating basis for the implementation of MEAs and cooperation with the European Environment Agency (EEA).

Since all responsibilities in the environmental sector, with the exception of those mentioned above, lie with the two republics (and, in some cases, municipalities), it is necessary to examine separately the situation in the two constituent republics, as well as in the special case of Kosovo. The Autonomous Province of Vojvodina is examined under the section on the Republic of Serbia.

■ REPUBLIC OF MONTENEGRO

Environmental law making

Environmental legal set-up

The Constitution of the Republic of Montenegro 1992 includes references to the environment, such as:

- Article 1: “Montenegro is a democratic, social and ecological state.”
- Article 19: “Everyone shall have the right to a healthy environment and shall be entitled to timely and complete information on its state. Everyone has the duty to preserve and promote the environment.”
- Article 65: “The state shall protect environment. Freedom of earning and free entrepreneurship shall be restricted by environmental protection.”

In accordance with its constitutional competences, the Parliament of the Republic of Montenegro adopted the Declaration on the Ecological State of Montenegro (OG of Montenegro, No. 14/91).

As in Serbia, environmental legislation consists of three types of statutes: primary legislation (laws) passed by the Assembly, rulebooks adopted by the government (Council of Ministers) and regulations/decrees enacted by the competent ministry.

Environmental legislation drafting institutions

The major competence regarding environmental policy and legislation in Montenegro is vested with the Ministry of Environment, which was founded in 1991.

Following the government's reorganisation in July 2001, the Ministry of Environment became the Ministry of Environment and Physical Planning (MEPP) with five departments and one office:

- Department for Environmental Protection;
- Department for Spatial Planning;
- Department for Urban Planning and Building (with a sector for each);
- Department For Communal-Housing Affairs;
- Department for Inspection and Secondary Administrative Procedures (with a sector for each); and
- Office for General, Personnel and Financial Affairs.

While the planning departments (the second through the fifth mentioned above) employ almost 80 persons, the environmental department has a staff of only 12. Two young lawyers are working in the environmental department of the MEPP, both involved in the law making process.

The ministry has legal competence related to the general policy of environmental protection. It also has authority in the following fields: protection of nature and protected natural resources, air protection, trade and disposal of hazardous materials, ionised and non-ionising radiation issues, protection from the effects of hazardous and harmful substances, chemicals, and biodiversity. It also has authority over the development and implementation of physical planning documents, granting permits for construction, arrangement systems and utilisation of construction sites, and solid waste management.

The ministry shares some of its competences with the Ministry of Economy in the areas of energy policy, energy supply and mineral resources, with the Ministry of Health in the areas of chemicals, drinking water, noise and radiation protection, with the Ministry of Agriculture, Forestry and Water Resources in the areas of soil, forestry and water protection, and with the Ministry of Internal Affairs in the areas of risk assessment and control, and in civil protection. The Department for Environmental Protection within the MEPP is responsible for the implementation of the administrative procedures in the area of environmental protection.

Legal drafting process and approximation strategy

Like Serbia, Montenegro has not developed a national environmental action plan (NEAP). However, a range of other relevant policy papers, reports and programmes have been prepared in recent years.

In 2001 a strategic document on Montenegro's sustainable development entitled *Development Directions of Montenegro as an Ecological State* (the "2001 Strategy"), developed in cooperation with the European Center

for Peace and Development (ECPD), was endorsed. The document reflects the distinctiveness of Montenegro with respect to its unique natural characteristics and represents a basis for establishing sustainable development, through the integration of economic, ecological and social development. The policy paper defines several key areas for development of priority programmes and projects:

- The Report on the Current Legal Structure and Resources Available to the Environmental Protection Agencies and Inspectorates in the Republic of Montenegro was published in 2002.
- The National Review On Hazardous Waste Management was elaborated within the framework of REReP 1.10 - Regional Strategy on Hazardous Waste Management, 2002.
- The National Waste Management Policy was adopted by the government on February 26, 2004. This policy of integrated and sustainable waste management in Montenegro sets out a vision for waste management and defines objectives and strategies facilitating its achievement.
- The National Waste Strategy, adopted by the government in January 2005, sets out a framework for change in the way Montenegro deals with waste, facilitated by a statutory and policy framework for waste.
- The Strategy of Implementation of Quality System in Line with ISO 9000 and ISO 14000 in Montenegro, which was developed in 1994, was revised and updated in 1999 and again in 2003.

The 2001 Strategy defines the government's long-term strategic directions, including environmental aspects. The following general aims have been laid down:

- ensure the integration of environmental and sustainable development problems into all segments of planning and management policy;
- develop and strengthen the institutional framework for environmental control and protection, providing for the inclusion of individuals and organisations in decision making;
- reform the legislation relating to the protection of the environment and nature; and
- issue decrees on maximum permissible emissions.¹

Specific objectives for sustainable development are defined by the 2001 Strategy in various fields.

Minerals raw materials

- Minimal use of non-renewable economic resources;
- Land re-cultivation after ore mining, and conservation of open-pit mines.

Power supply

- Creation of conditions for more efficient energy use in Montenegro;
- Rational power consumption;
- Introduction of new energy supply technologies;
- Supply of industrial systems and households with gas, and construction of gas pipelines;
- Effective introduction of renewable energy sources up to the level of 10 percent of total consumption;
- Construction of mini-hydroelectric power plants, solar and wind stations with a view to meeting the requirements of alternative sources of power.

Agriculture

- Spatial and regional planning of agricultural development based on ecological requirements, in accordance with the local ecological capacities/thresholds;
- Development and breeding of traditional crops and crops resistant to diseases and climate change.

Forestry

- Improvement of the current forest resources through rational forest management based on ecological principles;
- Rational exploitation of forests and forest ecosystems, maintaining the ecologically necessary relationship of growing–drying–consumption;
- System-related programme and procedure of establishing new plantations and careful upkeep of forests;
- Substitution of insufficient timber in the construction industry for sufficient aluminium, other metals and plastic by 2020, based on a cost-benefit analysis;
- Minimisation of biomass exports.

Industry

- Development of low-waste technologies and small-scale production programmes;
- Rationalisation of energy and material consumption;
- Radical reduction in the emission of pollutants from industrial processes, including the rehabilitation of industrial waste disposal areas and efficient industrial waste management;
- Adoption of ecological legislation relating to industrial development, and introduction of the ISO 9000 and ISO 14000 quality standards for industry.

Transport

- Increasing the share of more favourable modes of transport from an energy viewpoint;
- Giving priority to public transport development programmes, replacing means of transport based on internal combustion engines with electrical ones (trams, trolleybuses) in urban passenger transport, and introduction of trolleybus lines in coastal regions;
- Implementation of tax and customs policies that will encourage the use of more favourable modes of transport from an energy and ecological viewpoint;
- Minimising or prohibiting those means of transport which emit large amounts of exhaust gases in the most ecologically valuable regions;
- Satisfying the needs for development of road and railway transport, as well as long neglected coastal transport, in addition to the construction of infrastructure.

In 1992 a State-of-the-Environment report was published for the first time. Since then, the report has been published yearly. In 2002, for the first time, the report was prepared in line with European Environmental Agency (EEA) typology of DPSIR indicators, i.e. Driving Forces–Pressures–State–Impact–Response.

Legal drafts are prepared within the competent ministries. Within the MEPP, small working groups have been established consisting of internal staff and, usually, a few external domestic specialists. Working groups are often enlarged with representatives of NGOs and other ministries, as well as international experts.

When new legislation is prepared it is compared with EU legislation and checked for consistency with domestic legislation. A statement of compatibility and a table of concordance comparing the drafted provisions with the relevant EU norms have to be submitted, together with the draft, to the Assembly.

Environmental law drafting priorities

Three specific legal approximation plans or strategies determine the priorities of legal reform and harmonisation. In March 2003, the government of Montenegro adopted the Agenda of Economic Reforms for Montenegro for 2003–2006 (reviewed and amended in 2005), a comprehensive five-year plan aimed, among others, at the protection of the environment. In terms of environmental protection, the agenda sets the following objectives:

- establishment of an efficient legal system for environmental protection;
- improvement of economic instruments and financing mechanisms;

- efficient pollution control and natural resource management; and
- intensive sustainability of protected areas.

As priority activities in the area of environment, the agenda defines:

- harmonisation of the Law on Environment with EU standards;
- harmonisation and implementation of sub-legal acts under the competence of the Ministry of Environmental Protection and Physical Planning (assessment and strategic assessment, waste management, radioactivity, integrated pollution prevention and control, ecological labelling, chemicals, air protection, spatial planning, protected areas, environmental taxes and charges, inspection rights and procedures);
- harmonisation and implementation of sub-legal acts under the competence of other ministries (waters, forests, hunting, agriculture, mineral resources, noise, sea fishing and freshwater fishing, privatisation, trade, transport, health care, tourism, and coastal zone management);
- foundation of the Environment Protection Agency;
- foundation of the Ecological Fund;
- decentralisation of competences, including transfer of competences; training of personnel at the local level; and elaboration and implementation of programmes for building/reconstructing installations for wastewater treatment at the local level;
- access to information and public participation in decision making;
- information systems and environmental monitoring;
- improved pollution control in the sectors of energy sources, industry, agriculture, forestry, and transport, and at the local level; and
- improved management of protected areas and preservation of biodiversity.

In order to realise these tasks efficiently, the agenda defines:

- what must be done (concrete initiatives);
- who is responsible for the realisation of each task;
- deadlines for realisation; and
- engaged donor support.

In addition, in a Council Decision² setting the principles, priorities and conditions contained in the European partnership with Serbia and Montenegro, the EU Commission determined one short-term priority for

Montenegro — adoption of the strategy on wastewater and solid waste treatment with a view to approximating with the EU acquis — and two medium-term legislative priorities:

- develop an overall environmental strategy with a view to adopting the environmental protection framework legislation approximating with the EU acquis; and
- establishing the Environment Protection Agency.

The Working Plan of the Government of Montenegro for 2005 defines the timeframe for drafting and adopting the following environmental legal acts harmonised with relevant EU directives:

- amendments to the Law on Environment in line with EU standards;
- Law on EIA;
- Law on SEA;
- Law on IPPC;
- Law on Ambient Air Quality;
- Law on Waste Management;
- Law on Protection against Ionising Radiation and Radiation Safety; and
- Law on Establishment of Environmental Fund.

Lessons learned from international assistance

The bilateral assistance project YUGOLEX (see the chapter on the Republic of Serbia for more details) included Montenegro in its second phase (2003-2005). The estimated results were:

- draft primary legislation on EIA, SEA, IPPC and access to information on the environment in conformity with EU requirements; and
- primary and secondary legislation and standards relating to emission limit values.

By the end of 2004 primary and secondary legislation had been produced jointly by the MEPP and YUGOLEX experts on EIA, SEA and IPPC.³

According to the MEPP, the above-mentioned acts (EIA, SEA and IPPC), as well as all new laws, take into account the requirements of EU Directive 2003/4/EC, Directive 2003/35/EC, the Espoo Convention and the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

Under the REReP 1.3 project, an international legal expert assisted the drafting of a new Law on Ambient Air Quality.⁴ According to the MEPP, the cooperation with the expert under the REReP project was more

fruitful because the cooperation was closer and the drafting was done together.

Legal drafting cooperation

The legal drafting cooperation of the MEPP with other EU member states and SEE countries is rather low. For political reasons there was little cooperation between the MEPP and the federal environmental authorities.⁵ Today, the latter are regarded as no longer relevant since environmental protection has been under the exclusive competence of the republics since 2003.

Examples of laws from other countries which can be found on the Internet are taken into consideration in the drafting process wherever feasible and appropriate. Due to language restrictions mainly legal texts from other former Yugoslav countries are being used.

Legal overview by environmental sectors

In the field of environment a limited set of state-union level environmental laws and regulations (primarily dealing with air, water, forest and urban planning issues) remain in force. Many of these still date from the time of the former Socialist Federal Republic of Yugoslavia (SFRY). However, due to the fact that environmental protection was largely delegated to the competence of the republic governments, most of the applicable legislation in the field of environment in Montenegro can be found on the republic level.

Horizontal legislation

Competent authorities

The competent authority in this regard is the MEPP.

Laws and regulations in force

The Environmental Law (EL) of the Republic of Montenegro was adopted in 1996. It lays down general principles implemented by decrees, regulations and other legally binding legislation. The act describes the objectives and sets up the basic principles for environmental protection in Montenegro. In short, the principles are the following:

- conservation of natural resources;
- preservation of biological diversity;
- reduction of environmental risks;
- environmental impact assessment;
- alternative solutions;
- substitution of chemicals;
- reuse and recycling;

- polluter pays;
- user/consumer pays;
- mandatory pollution insurance;
- public access and involvement; and
- public information on the state of the environment.

The EL also sets up general rules for environmental protection measures, monitoring, an environmental information system, liability of environmental pollution, environmental financing, the rights of non-governmental organisations, and supervision of the law and the derived regulations. It also sets penalties for non-compliance. A number of shortcomings were identified in the law, which uses incoherent legal language, lacks numerous basic provisions, is not well structured and can hardly serve as the basis for a legal framework as intended.

EIA and SEA framework provisions are laid down in Article 19 and Article 65 of the 1992 Constitution of Montenegro. According to those rules, impact assessments are compulsory for all activities which are likely to result in pollution to the environment. Procedural details are prescribed in the laws

Currently, the EIA Regulation of 1997 (OG of Montenegro No. 14/97) remains in force. On May 19, 2005 the government of Montenegro submitted to the Parliament an approval of draft EIA and SEA laws. Until the Parliament adopts the laws, the present regulations remain in force. These regulations prescribe the categories of projects for which the EIA is obligatory (79 categories), the contents of EIA studies, criteria which must be met by institutions which draw up the studies, public participation and the methods of assessment and verification of the studies.

The EIA procedure is integrated into the licensing scheme and represents a part of the technical documentation. The decision-making process ends with the granting or the refusal of an ecological permit by the MEPP. The Guidance on the Content of the EIA Statement (OG of Montenegro, No. 21/97) explains in detail the content of all 10 chapters of the EIA statement prescribed by the EIA Act. The main purpose of this regulation is to help institutions to prepare EIA studies.

The EL contains specific provisions regarding environmental liability. The legal principle for taking into account environmental liabilities during the privatisation process can be found in Article 7 of the EL, which states: "Any polluter or his legal successor shall pay a real price for the harm done to the environment." Articles 29-34 describe the liability system in more detail, setting up liability for polluters and requirements for financial guarantees for activities likely to cause pollution. The text is vague, however, about intentions to establish a liability regime in the sense of strict or fault-based liability.

Status of legislation

The comparably short Environmental Law, with its 52 articles, can be seen as a framework law, although it stipulates only the legal competence for further subsidiary legislation to be adopted.

The right to access to information was addressed in 2002 with the enactment of the Law on Media and within the work on three legal projects: Law on Free Access to Information, Law on State Administration and Law on Ombudsman. These projects mark the beginning of an overall reform of state administration in order to increase the responsibility of authorities towards citizens and respect of their right to know and participate in all processes of state administration activities when these activities are performed in their name.

Environmental law drafting in progress

According to the MEPP, harmonisation with EU legislation is in process. The 1996 Environmental Law is expected to be modified and aligned with EU standards by the end of 2005. The YUGOLEX project experts, together with the MEPP, drafted EIA and a SEA laws and subsidiary rulebooks and regulations on:

- projects that are subject to elaboration by an EIA study;
- the contents of the developer's application, contents and scope of an EIA study, contents, and the format and method of public register keeping; and
- the contents of a strategic environmental assessment report and of the criteria for its validation.

The new drafts are said to be aligned with EU requirements and in the process of adoption.

A draft law creates the legal framework for access to information, including environmental information, defining what information should be accessible to the public, who is responsible for providing it, and through what procedures.

Obstacles, constraints, achievements and needs

None of the horizontal legislation has been adopted by the Parliament of Montenegro. The EL establishes a number of basic principles and ideas, but most of its provisions cannot be implemented without further detailed subsidiary legislation.

There needs to be coherence between the EL and existing legislation. The EL often provides no clear legal basis for the adoption of necessary laws and regulations. Furthermore it has ambiguous provisions. For instance, the government is obliged to develop so-called "environmental protection programmes," but legal and natural entities have the same obligation to draft such programmes.⁶

The EL establishes a new permitting procedure for EIA, but no public participation in decision-making

processes is explicitly foreseen. Public participation is therefore left to the MEPP to decide on a case by case basis pursuant to the existing EIA regulations. Nevertheless, it is expected that upon adoption of the new EIA regulation, the public participation requirements as provided in the EU directives will be integrated in the decision-making process.

Through the implementation of two projects, REReP 2.2 Strategies for Implementation of the Aarhus Convention in SEE and REReP 2.2.1 Building Capacity for Implementation of the Aarhus Convention within the Stability Pact, access to information about the environment has become a relevant issue in Montenegro.

Water quality

Competent authorities

Water protection in Montenegro is mainly the competence of the Ministry of Agriculture, Forestry and Water Management, but, to a lesser extent also of the MEPP. In essence water management problems are similar to those in Serbia.

Laws and regulations in force

In Montenegro, the pertinent legislation on water protection includes:

- Law on Waters (OG of Montenegro, No. 16/95 and No. 22/95);
- Regulation on Classification and Categorisation of Waters (OG of Montenegro, Nos. 14/96, 119/96 and 15/97);
- Regulation on Measuring Methods and Monitoring of Quality of Seawater for Bathing and Recreation (OG of Montenegro, No. 9/91);
- Regulation on Contents of Technical Documentation Necessary for Issuing Water Resources Compliance and Water Resources Permit (OG of Montenegro, No. 4/96);
- Regulation on Keeping the Water Registry and Superficial and Groundwater Cadastre, Users and Polluters of Water, Torrent Flows and Erosive Areas and Water Production Premises and Facilities (OG of Montenegro, Nos. 5/96 and 19/96);
- Regulation on Methods for Determining and Maintaining Zones and Belts of Sanitary Protection of Potable Water Sources and Restrictions in the Related Zones (OG of Montenegro, No. 8/97);
- Regulations on wastewater quality and methods of their emission into the public sewerage system and natural recipient (OG of Montenegro Nos. 10/97 and 21/97);
- Programme of Systematic Water Quality Investigations on Water Operations (the zone of sanitary

protection) and Public Bathing Beaches (OG of Montenegro, No. 13/00);

- Regulations on Permitted Amounts of Hazardous and Harmful Substances in Soil and Water for Irrigation and Methods of their Testing (OG of Montenegro, No. 23/94).

Status of legislation

No legislation has been enacted on water protection since 2000. Except for its inclusion in several definitions, water protection has not been addressed in the EL. There is no specific strategy on water protection or water management. The legal quality of the main primary act, the 1995 Law on Waters is not assessed here because it is not available in English.

Environmental law drafting in progress

The drafting of new legislation, though based on the requirements of the EU acquis and the Economic Reform Agenda, is seen as a legal priority by the Ministry of Agriculture, Forestry and Water Management. As a result, an inter-ministerial working group, established by the Ministry of Agriculture, Forestry and Water Management, is drafting a new law on waters aimed at transposing relevant EU directives.

Obstacles, constraints, achievements and needs

A wide range of legislative acts regulates water management in the Republic of Montenegro. These acts need to be analysed in greater detail to determine how well the current system is in line with the EU regulatory framework and to identify the relevant gaps.

Air quality

Competent authorities

Since 1991 the MEPP is the responsible authority for the drafting and implementation of air protection legislation.

Laws and regulations in force

The 2001 Strategy identifies a number of goals in order to prevent air pollution, improve the legal framework and align it with the *acquis communautaire*.

Air protection is also partly addressed by the 1996 EL. The release of polluting substances into the environment that exceed prescribed limits is prohibited. These emission limits are due to be set (Article 9, Article 16), but until new standards have been prescribed, the existing ones remain in force. The Law on the Protection of the Air from Pollution (OG of Montenegro, Nos. 14/80 and 16/80) defines the concept and the fundamental principles of action to be undertaken, as well

as designating the areas in which more detailed regulation should be adopted.

The Rulebook on Permissible Concentrations of Harmful Substances in the Air (OG of Montenegro, Nos. 4/82 and 8/82) sets limit values for ambient air concentrations of a number of noxious gases and hazardous substances, including heavy metals, lead and cadmium. A distinction is drawn between short-term limit values (daily, hourly) intended to prevent high concentrations of short duration, and long-term limit values (annual) aimed at reducing chronic exposure.

Other existing legislation on air protection includes the following subsidiary acts:

- The Rulebook on Analysis Methodology, Timeframe and Forms of Informing on Results of Monitoring and Detecting Harmful Substances in the Air on the Sources of Pollution (OG of Montenegro, Nos. 4/82 and 8/82) relates to limiting air emissions of certain pollutants coming from industrial installations. This regulation is in the process of being revised.
- The Rulebook on Emission of Air Polluting Substances (OG of Montenegro, No. 25/01) prescribes the type of emission of air polluting substances, measuring methodology, sampling, record keeping and timeframe for submission of data, as well as requirements regarding instruments and personnel that authorised laboratories must fulfil.

Status of legislation

Article 8 of the Law on the Protection of the Air from Pollution provides that the town and country planning system is the primary system of anticipatory control of air pollution, and calls for the preparation of plans by local authorities to protect human settlements from activities causing air pollution. The law also requires the licensing of polluting activities in accordance with limit values for emissions and imposes self-monitoring, record keeping and reporting to the prescribed authority. Article 19 of the law imposes continuous air monitoring on the territory of the republic. This law makes no connection to the EL and vice versa.

Environmental law drafting in progress

A new draft law on Ambient Air Quality was elaborated in 2003 in the MEPP with international support under the REReP 1.3 project. The legal draft was shaped in accordance with the requirements of the Ambient Air Directive 96/62/EC. However, the draft has not been adopted since and is still with the MEPP.

Obstacles, constraints, achievements and needs

The legislative framework is not yet in line with the *acquis*. Neither the emission limits nor the air quality standards are fully compliant with EU standards.

Nature protection

Competent authorities

The MEPP is mainly in charge of nature protection policy and legislation. The responsibilities overlap partly with those of the Ministry of Agriculture, Forestry and Water Management, which is responsible for protected areas that are included in the forest management plan.

Laws and regulations in force

In addition to several general provisions included in the EL, a number of legal acts on nature protection are in place:

- The Law on Nature Protection (OG of Montenegro No. 36/77 and No. 2/82) protects nature as a whole, and particularly areas of special natural values, nature landmarks and natural rarities that are of special significance to the life and work of citizens.
- The Regulation on the Protection of Rare, Endemic and Endangered Animal and Plants (OG of Montenegro, No. 30/68) puts 52 plant species and 314 animal species under protection.
- The Law on National Parks (OG of Montenegro, No. 47/91) defines the protection, conservation and management of national parks as natural assets of general interest. There are four natural parks in Montenegro.
- The Law on Forests (OG of Montenegro, No. 55/00) specifies that forests, as natural assets of general interest, are to be renewed, maintained and used under conditions and in a manner that ensure the permanent conservation and increase of natural values and ecological functions.

Status of legislation

Pursuant to Article 15 of the EL, there are six categories of protected natural resources:

- nature reserves;
- national parks;
- protected species;
- natural monuments;
- nature parks; and
- areas of distinguished properties of nature.

Criteria for the categorisation as well as the protection and allowed use of these categorised resources shall be determined in subsidiary legislation. Such legislation does not exist. On the basis of the existing Law on the Protection of Nature (OG of Montenegro, Nos. 36/77, 2/82) the Republic Institute for Protection of Nature enacts regulations for granting the status of protected area to specific objects of nature.

Environmental law drafting in progress

No information is available on this topic.

Obstacles, constraints, achievements and needs

None of these laws or regulations is legally linked with the EL. Neither the Birds nor the Habitat directive requirements are taken into consideration in the existing legal framework. The MEPP emphasised the need for a new and comprehensive legal framework on nature protection.

Waste management

Competent authorities

The MEPP is the main competent authority on waste management issues for the Republic of Montenegro. Municipalities are responsible for local waste management.

Laws and regulations in force

The EL defines waste (Article 8.8), restricts the import of waste — unless used as a production material — (Article 10.1) and prohibits the disposal of hazardous waste unless such disposal has been approved by the ministry (Article 10.2). Criteria for the determination of a waste disposal site shall be prescribed by the MEPP.

Other waste related legislation includes the Act on Cleaning, Collecting and Usage of Wastes (OG of Montenegro No. 20/91, 36/81, 2/89 and 19/89) and the Rulebook on Criteria for Choosing Location, Methods and Procedures of Disposal of Waste Substances (OG of Montenegro, No. 56/00), which sets out the conditions for selecting both temporary and permanent storage sites of waste containing hazardous material. These criteria are based on European standards, including requirements for a protective layer to prevent groundwater contamination, introduction of a drainage system, and special geological conditions of sites. In accordance with the regulation, legal and natural entities that produce hazardous waste are obliged to keep records and report on the quantity and type of hazardous waste they produce. The categories of hazardous wastes presented in the Annex of the Regulation are in line with the Basel Convention.

Status of legislation

Compared to the other sectors of environmental legislation, the waste sector is characterised by the adoption of several planning documents. This could be justified by the fact that waste management is described as a serious problem in Montenegro; municipal waste is dumped at uncontrolled disposal sites without prior separation or treatment. Disposal sites for industrial waste are also uncontrolled and in poor con-

dition and represent a great threat to environment and human health. The National Waste Management Policy adopted by the government in 2004 defines several key objectives for the waste management policy:

- promote the prevention and minimisation of waste generation and hence pollution at source;
- promote the management and minimisation of the impact of unavoidable waste from its generation to its final disposal;
- ensure the integrity and sustained “fitness for use” of all environmental media (i.e. air, water and land); and
- ensure the remediation of any pollution by holding the responsible parties accountable.

The National Waste Strategy, adopted by the government in January 2005, further defines strategic goals. Its key elements are:

- to reduce the generation and environmental impact of all forms of waste;
- to ensure that the health of people and the quality of environmental resources are no longer affected by the mismanagement of waste; and
- to address all elements of the waste hierarchy.

The strategy sets the overall objective of ensuring progress towards the sustainable management of waste generated in Montenegro, and in the medium-term achievement of the waste reduction targets as indicated in relevant waste related directives of the European Union. The strategy also establishes interim targets that reflect the short-term needs: focus on municipal, hazardous, healthcare and other waste streams; increase the amount of waste collected; reduce land filling of waste generated and introduce recycling activities.

In the next two years seven new regional municipal waste disposal sites compliant with EU standards are to be built.

A policy paper on the *National Review of Hazardous Waste Management* was prepared by the MEPP.

Apart from the standards set in the above mentioned rulebook, the present legislation is fragmentary and not compliant with EU legislation. Numerous elements of a modern waste management system are lacking.

Environmental law drafting in progress

A new waste framework law has recently been drafted. It was designed in line with the waste framework directive 75/442/EC. The draft law has been adopted by the government and submitted to the Parliament for approval.

Obstacles, constraints, achievements and needs

Although several key planning documents have been developed defining priorities for action, still fur-

ther efforts need to be made for the adoption of a comprehensive regulatory system for waste management covering all the different waste streams.

Industrial pollution control and risk management

Competent authorities

The MEPP is responsible for legislation related to environmental pollution caused by industry.

Laws and regulations in force

The EL establishes environmental impact assessment as the sole environmental permitting/approval procedure. All new industries are subject to an EIA, but there is no specific environmental permitting system in place, and nothing is foreseen by the Environmental Law. The IPPC approach has not been adopted in the environmental regulatory system. Consequently, the BAT principle cannot be found in the current legal system.

Status of legislation

The 2001 Strategy, which was prepared to take steps towards the ambitious target of making Montenegro an “ecological state” as stipulated by the Constitution, does not specify any detailed action or legal requirement to be taken in relation to industrial pollution prevention.⁷

The strategy for implementing the quality system in Montenegro (adopted by the government in 1994 and revised in 1999) includes the application of international standards ISO 9000 and ISO 14000 by enterprises. The government of Montenegro has allocated financial support for those enterprises willing to implement these standards.

According to the current legal system, dangerous industrial activities are recorded and controlled, and they must meet specific requirements. There are also requirements for preparing emergency response plans for dangerous industrial activities. However, apart from the above mentioned provisions addressing liability for environmental damage, and its prevention and reclamation, there are no specific industry-related risk minimisation provisions or regulations in place.

Environmental law drafting in progress

In the framework of Phase 2 of the YUGOLEX project, a draft law on IPPC was prepared by project experts. The law and two sub-regulations — the Regulation on Activities and Installations Subject to the IPPC and Criteria For Determination Of The Best Available Techniques (BAT), and the Regulation on the Contents and Method of Keeping the Registry Book of Issued Integrated Permits — are in the process of adoption.

Obstacles, constraints, achievements and needs

The forthcoming adoption of the IPPC law and its subsidiary regulations will represent a great step towards setting up a regulatory system for conducting industrial activities in compliance with the EU acquis. Nevertheless, this will be only the first step, and further legislation will be needed for the prevention and management of major industrial accidents, environmental liability, and other areas.

Chemicals and GMOs**Competent authorities**

No information is available on these topics.

Laws and regulations in force

There exists no specific legislation on chemicals in Montenegro besides the general provisions of the Environmental Law. The laws on state-union level are applicable.

The Law on GMOs of 2001 is applicable at the state-union level. The law addresses the conditions for the contained use, introduction in production and trade of GMOs, as well as products made of GMOs. It also addresses the conditions and measures for the prevention and elimination of undesired effects of contained use.

Status of legislation

The EL includes a definition for harmful and hazardous materials. It also stipulates that:

the use of chemicals that are degradable into non-harmful substances shall have precedence over the use of other chemicals. Importer, producer, user and consumer shall be obliged to use the least hazardous and harmful substances available and satisfactory to their required effect.

Environmental law drafting in progress

As a follow-up to the drafting activities in Serbia, a comparable initiative has started in Montenegro, and a draft law on chemicals is expected to be finalised by the end of this year. The experience and the lessons learned by the Serbian ministry will be an important basis for this work in Montenegro.

Obstacles, constraints, achievements and needs

The comprehensive work already undertaken in Serbia on defining the necessary steps towards the adoption of a comprehensive legislative system for chemicals management represents a good model for Montenegro, given the common starting point in terms of a legislative framework. Montenegro has already started the work on drafting a law on chemicals, taking into account the draft law prepared in Serbia, and further transfer of experience will facilitate the process.

Noise**Competent authorities**

No information is available on this topic.

Laws and regulations in force

The Noise Protection Act (OG of Montenegro, No. 14/95) prescribes maximum allowable noise levels in private houses, public buildings (e.g. hospitals, schools, and theatres) human settlements (by zones), public areas (parks) and noise from vehicles.

Status of legislation

No analysis of the degree to which the above mentioned act reflects the requirements of EU legislation is available.

Environmental law drafting in progress

A new draft Law on Noise has been prepared with support from external local experts, transposing the requirements of Directive 2002/49/EC relating to the assessment and management of environmental noise. The draft law has been submitted to the government for adoption.

Obstacles, constraints, achievements and needs

No information is available on this topic.

Nuclear safety and radiation protection**Competent authorities**

No information is available on this topic.

Laws and regulations in force

No information is available on this topic.

Status of legislation

No information is available on this topic.

Environmental law drafting in progress

A Law on Protection from Ionising Radiation and Radiation Safety has been recently drafted by MEPP staff and local experts. The draft law has been reviewed by the experts from the International Atomic Energy Agency from Vienna, and opinions and comments are being collected from relevant ministries.

Obstacles, constraints, achievements and needs

No information is available on this topic.

Conclusions and recommendations

One of the greatest achievements of Montenegro's Constitution is that it declared the Republic of Montenegro an "ecological state," probably the first in the world. This declaration has set a challenge for implementation, and has placed a heavy burden on public authorities.

However, the existing environmental legislation does not meet the ambitious goal of making the republic an ecological state nor does it comply with EU legislation. Though the number of existing legal acts is relatively good, this legislation is largely vague and inconsistent, with a lack of vertical and horizontal harmonisation. These shortcomings are most apparent in the text of the Environmental Law of 1996.

In the Republic of Montenegro the process towards the harmonisation of domestic legislation on environmental protection with the EC requirements has started. Urgent legal drafting is needed in almost all sub-sectors of the environmental acquis, but this process needs to be backed up by a clear planning exercise, defining priorities and short- and medium-term priorities. This process could be accelerated by the adoption of the NEAP and the creation of a clear approximation strategy. The planning process would also be greatly facilitated by the preparation of a comprehensive gap analysis for each sector, which seems to be missing at this point.

Several key regulations are either in the process of adoption or drafting, most of them with international assistance. However, even after they have been adopted, there will still be further challenges, especially in developing implementing legislation.

No promotion of industrial self-regulatory instrument (like the current support to companies to apply ISO 14000) can replace a functioning IPPC system, so this must be created as well.

A number of severe obstacles and constraints can be observed which hamper the legal harmonisation process in Montenegro. The MEPP itself named the main problems as:

- the lack of translated EU directives;
- the language barrier (only a few staff members speak and read English properly);
- the insufficient number of employees in the MEPP, especially environmental lawyers; and
- the lack of organised continuing education on the environmental acquis.

Bearing in mind the overall capacity of just 12 staff members at the MEPP, and no experienced lawyer among its highly motivated staff, it is obvious that the future legal drafting process requires substantial technical assistance and training from abroad.

Information sources

In addition to the information sources used for the report on the Republic of Serbia, the following sources of information were provided for the chapter on Montenegro.

The Ministry of Environmental Protection and Physical Planning (MEPP) of the Republic of Montenegro has published one law in force and three legal drafts on its webpage. A fourth draft law was provided by an expert engaged under the REReP 1.3 programme. The questionnaire which was sent to the MEPP was answered and returned by the key person involved in the legal approximation process: Mrs. Biljana Djurovic, head of the Department for International Cooperation and Sustainable Development in the MEPP. A meeting with Mrs. Djurovic took place at the ministry on February 17, 2005.

ENDNOTES

- 1 See Project YUGOLEX, Phase II, draft Implementation Plan 2003, page 3.
- 2 Council Decision of June 14, 2004 on the Principles, Priorities and Conditions Contained in the European Partnership with Serbia and Montenegro including Kosovo [...] 2004/520/EC.
- 3 All three primary draft laws can be found on the ministries' webpage <www.mepp.cg.yu>.
- 4 Air Act of Montenegro, draft version of July 25, 2003, commissioned by the REC.
- 5 *UNECE Environmental Performance Review Yugoslavia 2002*, page 20 (UNECE Report).
- 6 See articles 11-14 of the Environmental Law 1996.
- 7 See UNECE Report, page 146.

■ REPUBLIC OF SERBIA

Environmental law making

Environmental legal set-up

National competence with respect to legislative activities is limited to international agreements to which the country is a party, whereas the development and implementation of environmental legislation is left with the republics.¹

Consequently, the Constitution of the Republic of Serbia (1990) establishes that environmental issues are within its competences. Article 72 reads:

The following shall be regulated and provided by the Republic of Serbia:

[...]

5) the system of protection and advancement of human environment; protection and promotion of plants and animals.

The Constitution also refers to the right to environment in Article 31: "Man shall have the right to a healthy environment. Every person is bound, in accordance with law, to protect and enhance the human environment."²

The legal framework for environmental protection consists of primary legislative acts and sub-legislation, mainly in the form of rulebooks.

Subchapter 15 on Urban Planning of Article 30 and subchapter 16 on Construction of Article 31 also contain some environmentally relevant provisions. Consequently, the Province of Vojvodina has tasks and powers regarding implementation questions in the field of environmental protection within the legal and institutional system of the Republic of Serbia (see box 1).

Environmental legislation drafting institutions

From 2001 until 2002 the competent authority for environmental matters was the Directorate for Environmental Protection, which was integrated into the Ministry for Health and Environmental Protection. In 2002 the Ministry of Natural Resources and Environmental Protection was established, but already in spring 2004 the new government abolished this separate ministry and merged it with the Ministry for Science into the newly designated body Ministry for Science and Environmental Protection (MSEP), which became responsible for environmental issues.

Since then environmental protection has again been handed to a directorate, this time within the MSEP. This directorate is sub-divided into six main divisions, two of which — the Division for International Co-operation and European Integration in the Field

of Environmental Protection and the Division for Legal and Economic Instruments — are mainly concerned with legal drafting activities and the process of legal approximation, which they initiate.

Legal drafting process and approximation strategy

A National Environmental Strategy is to be developed by the end of 2005 pursuant to the requirements of the new Law on Environment. Still there exists no national strategy for legal approximation in Serbia.³ However, each year the Serbian government adopts an Action Plan for Harmonisation of Laws with the *Acquis Communautaire*, which contains a list of laws that should be drafted and harmonised with relevant EU directives.

The Serbian National Parliament adopted the Resolution on EU Accession on October 14, 2004. The resolution contains guidelines for the functioning of legal and executive authorities in Serbia, such as the obligation of the National Parliament to give priority to the process of legal harmonisation with the *acquis communautaire*. Also in 2004, the Serbian government adopted an Action Plan for meeting the priorities defined in the European Partnership, including a specific chapter on environment. The priorities defined by this Action Plan are presented later.

Neither of the constituent republics has developed a national environmental action plan (NEAP), contrary to most of the other countries in the Balkan region. However, the drafting of the NEAP in Serbia is in its final stages. Until 2002 no explicit environmental policy had been developed. In 2001 the Serbian government approved a *State-of-the-Environment Report* referring to the year 2000. Based on this report the National Assembly adopted a range of priorities to be tackled in the coming years, such as:

- the building and reinforcing of environmental protection institutions and services;
- the adoption of a framework law on environmental protection;
- the design and implementation of new environmental strategies (e.g. a waste management strategy, a NEAP, and local environmental action plans); and
- a commitment to regional cooperation and environmental law reform.⁴

Legal drafting is done by working groups containing domestic and often international experts. The working group is coordinated by the ministry in charge, most often the MSEP. During the drafting process a law must be compared with EU legislation, and usually also with the legislation of one or more

BOX 1

The Autonomous Province of Vojvodina⁵

The Omnibus Law [Official Journal (OG) Republic of Serbia No. 6, February 7, 2002], which regulates the constitutional status of Vojvodina, defines competences in environmental issues⁶ in article 29:

"The Autonomous Province shall, through its bodies and in accordance with the law governing environmental protection and improvement:

- 1) pass a programme of protection and development of the environment on the territory of the Autonomous Province and determine measures for its implementation in accordance with main objectives and guidelines defined at the Republic level;
- 2) regulate individual issues related to protection, development and improvement of the environment of interest to the Autonomous Province;
- 3) establish the Province Institute of Environmental Protection, which shall be delegated administrative authority to deal with matters related to the protection of environment and natural resources on the territory of the Province which are under the competence of the Republic; [...]
- 4) perform administrative supervision in all areas of environmental protection, except in respect of toxic substances and conservation of biodiversity and take measures for elimination of irregularities.

The tasks from Paragraph 1 of this Article shall be performed as delegated tasks."

member states, that of an SEE country, as well as with domestic laws.

As soon as a final draft is prepared it is then submitted to the government's Secretariat for Legislation, where the draft is checked again for its compliance with the national legislation. As concerns the harmonisation with EU law, the competent minister needs to sign a statement of approximation of all legal acts prepared by the ministry with the *acquis communautaire*, in which all EU directives and decisions of EU legislation transposed into the proposed act are listed.

The law is then submitted to the government for adoption and from there to the Parliament, where amendments can be suggested.

The main problem that the ministry faces during the approximation process is the large number of laws and sub-laws to be drafted in a short period of time. The workload does not correspond to capacities at the ministry and the limited number of staff who are involved in the drafting process. For instance, the working group in charge of preparing the very first draft of the framework law on chemicals, which is a vast and complex issue, consists of only three permanent members from three ministries. The working group for drafting a new Law on Waste consists of representatives of the MSEP, the Ministry of Health, the Autonomous Province of Vojvodina and local authorities.

The public and other relevant stakeholders are said to be involved through round tables and by the submission of law drafts to the interested public.⁷ Public hearings on draft laws are prescribed by rules of procedure of the

Serbian government and the text of a draft law must be sent to other ministries and stakeholders for their opinions before adoption by the government. Stakeholders are identified according to the subject of the law.

A number of recommendations for improving the legal drafting process in order to facilitate the implementation process and the acceptance of laws are proposed in Box 2.

There are positive examples of the drafting process. The YUGOLEX project conducted more than 15 workshops for the public on the concept and legislation of EIA, SEA and integrated pollution prevention and control (IPPC). It also held five internal drafting workshops before the final draft legislation, consisting of eight pieces of sub-legislative acts submitted to the MSEP in Summer 2004.⁸ Box 3 provides a summary of the activities that led to successful harmonisation of chemical legislation under the project Assistance in Environmental Law Drafting in South Eastern Europe.

Environmental law drafting priorities

As concerns the legal drafting priorities in the environmental sector in Serbia three sources of information have been analysed.

In the Council Decision of June 14, 2004 on the Principles, Priorities And Conditions Contained in the European Partnership with Serbia And Montenegro Including Kosovo [...] (2004/520/EC) the EU Commission determined the following short- and medium-term legislative priorities:

BOX 2

Recommendations for considerations in the legal drafting process

- Full transparency should be observed throughout the drafting process, and previously identified key stakeholders and the public should be involved.
- Legislation of the EU, member states and other countries in transition should be taken into account, along with current trends in legal theory.
- Drafting should comprise complete sectoral legislation from the very beginning, i.e. primary and secondary legislation.
- The final stage of the drafting process should:
 - assess the institutional capacity for implementing new legislation;
 - assess financial needs for implementation;
 - recommend a comprehensive programme for implementation; and
 - set up an initial schedule for further international assistance required.⁹

BOX 3

Successful harmonisation process for chemical legislation

- Translation of relevant directives into Serbian
- Translation of laws on chemicals management of new EU member states
- Comparison of solutions and approaches (also taking the Slovenian approach into consideration)
- Commence draft writing in a small working group composed of the MSEP and line ministries (Ministry of Health, Ministry of Labour) staff
- Study visit under the REReP 1.3 project of working group members to the Slovenian Chemical Bureau
- Completion and translation of first law draft and submission to the REC for review by international experts
- Organisation of national workshop by the MSEP for public presentation of legal draft to relevant stakeholders

- adopt a law on environmental protection;
- adopt and begin implementing a strategy on air pollution, water (wastewater) and soil (solid waste); and
- strengthen administrative capacity as regards planning, permitting, inspecting, monitoring and project management.

These priorities were integrated into the action plan of the Serbian government established in 2004.¹⁰ The adoption of the law on environmental protection was seen as the first goal. The adoption of strategies on waste waters, solid waste and air pollution with a view to establishing a framework for environmental legislation in line with EU legislation were set as additional main targets.

Pursuant to the provisions of the new environmental law, a strategy on sustainable use of natural resources shall be adopted within one year after adop-

tion of that law. Within two years action plans shall follow on water protection, air and atmosphere protection, improvement of urban planning and spatial planning, soil protection, forest protection, ecosystem protection, protected areas, waste management, chemicals management, protection from ionising and non-ionising radiation, accidents, protection from noise and vibration, sustainable use of energy, development of information system, development of scientific research and education.¹¹

The responses to the questionnaire by a respondent from the MSEP and the local team leader of YUGOLEX — both intensively involved in legal drafting activities — suggested they are willing to rank at least four fields as high priority: water protection, air protection, waste management, and chemicals and GMOs. Only noise protection was ranked by both as having little relevance for legal drafting concerns.

During the preparation of the NEAP, several stake-

holder meetings were held to discuss policy and legal priorities. One such meeting was held in Vrujci on June 30, 2004, where the participants came up with an overall list of 24 draft policy objectives for the NEAP, including increasing institutional capacity for development, implementation and enforcement of environmental legislation and standards, and securing public access to environmental information in accordance with the requirements of Directive 2003/4/EC.

Additionally, priorities in all sectors were ranked by means of an opinion poll of all participants on an overall scale from 20 points (low) to 50 (high). Moreover, the timeframe of each activity was assessed as being short (2004-2007), medium (2004-2015) or long (2008-2015) in terms of implementation.

Table 1 gives a picture of the planning process for defining legal drafting needs. The final draft version of the NEAP was finalised later, and the priority list may be different from Table 1 which contains the law-related activities proposed during the June NEAP forum.

Lessons learned from international assistance

EU and other external programmes include technical assistance to central authorities to draft, adopt and implement new environmental policies and laws, in order to make sure environmental legislation is developed in line with EU standards.

There have been two main technical assistance projects related to environmental legislation in Serbia in recent years. One project, funded by the European Agency for Reconstruction (EAR) is the Environment Capacity Building Programme 2003. Its objective is to facilitate effective implementation and enforcement of environmental protection legislation throughout Serbia in light of the forthcoming institutional and legislative reform. One part of its activities focuses on the provision of support for capacity building within the MSEP, including support to build capacity for the preparation of new sectoral legislation. Another focus is to help the preparation of the national environmental strategy and the first NEAP.

Limited advice has been given within this project by international experts on the drafting of the environmental protection law. A waste framework law and further guidance will be provided on the draft law on air protection and nature protection. The main focus of the project was the training of civil servants with regard to the implementation of laws and to familiarise them with the *acquis communautaire*.

All legal drafting processes have been initiated and coordinated by the MSEP, whereas international legal advice was provided on specific request only.

The second relevant technical assistance project has been YUGOLEX (Development of Environmental Legislation in the FRY), a bilateral assistance project of Fin-

land. The project has been implemented in the Republic of Serbia, and later also in the Republic of Montenegro, in two phases. Phase I (2002-2003) took place only in Serbia, while Phase II (2003-2005) includes Montenegro. The project's goal is to contribute to the overall objective that environmental legislation, compliant with relevant EU legislation, is in place and enforced.

The project has been tackling harmonisation of environmental legislation of the Republic of Serbia with that of the EU in regards to EIA, SEA, IPPC, access to environmental information and public participation in decision making. Legal drafting in the above mentioned areas has been done jointly by international and domestic experts, and experts within the MSEP. The involvement of the public was guaranteed during the process, which was complemented by other activities.

The outcomes of the YUGOLEX activities are considered a success. Specific laws on EIA, SEA and IPPC were drafted and approved by the Serbian government and Parliament in December 2004.

While the EAR-financed project has no project website, some of its results are on the webpage of the MSEP. The YUGOLEX project in turn has published its results and activities (see www.yugolex.org.yu).

In the answers to the author's questionnaire, the need for additional and intensified technical assistance was stressed. Such assistance should be given on the spot, but also by means of written consultations (revision of legal drafts), questions and answers, as well as ad hoc advice by phone or e-mail.

Legal drafting cooperation

Legal drafting cooperation with other parts of SEE has been limited. During the legal harmonisation process, laws in EU member states (especially those of Slovenia, the Czech Republic and Slovakia) as well as those of candidate countries Bulgaria and Romania have been taken into consideration.

Within the YUGOLEX project, IPPC legal acts from Estonia, Hungary and Latvia have been translated into Serbian, as has EIA legislation from Canada, Germany, Hungary and Portugal. In addition, a number of expert reports were prepared, covering legislation in Bulgaria, Croatia, Finland, Slovenia, Sweden, the UK and others.

Legal overview by environmental sectors

A number of laws, especially with regard to horizontal legislation, were adopted in December 2004. A new Law on Environmental Protection (LEP) as well as specific primary legislative acts on IPPC, EIA and SEA have been adopted by the government, submitted to the Parliament for approval and published in the Official Gazette.

TABLE 1

Law-related activities proposed during the June 2004 NEAP forum

RANK	OBJECTIVE IN RESPECTIVE POLICY AREA	SCORE	TIMEFRAME
Air protection and climate change			
1	Revise regulation on air emission limit values in line with LCP Directive 2001/80/EC, the VOC Directive and the Waste Incineration Directive	44.5	Short
5	Revise the ambient air quality standards for sulphur dioxide, nitrogen oxides, lead, ozone and benzene in ambient air in line with corresponding EU Directives	38.8	Short
Noise and vibration			
1	Harmonise standards and regulations for noise monitoring and control with EU standards by 2007	35	Short
2, 6, 7	Establish selected noise zoning in agglomerations by 2010, prepare action plans by 2014 and draft noise maps by 2012 pursuant to the Noise Directive	33, 31, 27	Short, medium, and long
Protection from radiation			
1	Revise legislation on protection against ionising and non-ionising radiation by 2005	37.2	Short
Water management and water resources			
1	Adjust national water management regulations to the EU Water Framework Directive	46.3	Short
2	Set emission limit values for effluent discharges according to the Urban Wastewater Treatment Directive by 2007	46	Short
11	Adjust drinking water standards to requirements of the Drinking Water Directive by 2007	35.8	Short
15	Adjust bathing water quality standards to the Bathing Water Directive by 2010	31.2	Long
Waste management			
1	Adopt the Waste Management Act and the Packaging and Packaging Waste Act and revise the current by-laws by 2006	47	Short
3	Introduce separate collection and recycling of hazardous waste, oils and batteries (which requires corresponding legislation)	43.1	Medium
4	Develop integrated waste management plans for all regions in line with the Waste Framework Directive	43	Short
14	Introduce treatment of end-of-life vehicles following the ELV Directive by 2014	32.8	Long
15	Achieve 25% reuse/recovery/recycling rate for electrical and electronic waste by 2014 (which requires corresponding legislation)	32.8	Long
Nature protection, biodiversity and forests			
1	Adopt consistent system of laws on nature protection and biodiversity (and related bylaws) consistent with the Directive on the Conservation of Wild Birds and the Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora	39.2	Short
Industry			
5	Introduce an integrated permitting system for industrial installations compliant with the IPPC Directive	45	Medium
7	Revise national regulations on industrial accidents	44.5	Short
Transport (air-protection related)			
2	Introduce and implement standards for fuel quality in accordance with EU Directive 2003/17/EC by 2010	42	Medium
6	Reduce fuel vapour emissions from petrol stations, mobile containers and storage installations following Directive 94/63/EC	26.8	Long

Horizontal legislation

Competent authorities

The MSEP is in charge of horizontal legislation.

Laws and regulations in force

The new LEP was promulgated in late 2004. It repeals the 1991 Law on Environmental Protection which was last amended in 1995, except for provisions referring to the protection of air, water, natural resources and protection from noise.

Two other important horizontal laws have been promulgated in 2004: the Law on EIA and the Law on SEA. Both laws regulate in detail the procedures for impact assessments of the project plans and programmes, and follow the approach and requirements of the directives 97/11/EC and 2001/42/EC.

Status of legislation

The new LEP contains a number of modern and ambitious principles on which environmental policy in Serbia shall be based, such as:

- Integration principle — Competent authorities on all levels shall provide the integration of environmental protection and enhancement into all sector policies by implementing harmonised plans and programmes, by implementing regulations through a permit system, technical and other standards and norms [...].
- Prevention and precautionary principles — Every activity must be planned and implemented in a way that causes minimal possible change to the environment and represents the smallest risk towards the environment and human health (realised through EIA and best available techniques).
- Principle of natural value preservation — Renewable natural resources shall be used to ensure their permanent and efficient renewal and permanent quality enhancement. Non-renewable natural resources shall be used to ensure their long-term, economical and reasonable utilisation.
- Principle of protection of right to healthy environment and access to justice — a citizen or groups of citizens, their associations, professional and other organisations shall be entitled to exercise their right to a healthy environment before the competent authority or the court in accordance with the law.

Other principles included are polluters' and legal successors' liability, complemented by the principle of subsidiary liability of state authorities, the polluter pays and user pays principles and the principle of public information and participation in decision making.

The LEP explicitly empowers the government to

adopt additional specific laws and by-laws that regulate EIA and SEA, IPPC, nature, air, water, soil forest protection, chemical management, waste management, radiation and noise.

The LEP includes a list of definitions, defines strategic documents and plans to be drafted by the government, and contains one article on each of the following matters: water, air, forest, fauna and flora, biodiversity protection, waste management, noise and radiation, as well as articles on EIA, SEA, IPPC and accident risk assessment. The issue of environmental liability is prescribed in Chapter VII of LEP — Liability for Environmental Pollution — and this issue is also regulated by the Law on Obligation Relations (civil law relations). According to the ministry, the provisions of the LEP are in line with the requirements of EU Directive 2004/35/EC. Nevertheless, in order to have a fully compliant system, further subsidiary legislation needs to be developed.

There is also a special chapter on Measures and Conditions of Environmental Protection, comprising:

- preventive measures (planning and construction, urban and spatial planning, SEA, EIA, IPPC and accidents);
- conditions of environmental protection (standards of quality of environment and standards of emissions, systems of environmental protection management, and standards of products, processes and measures of protection from dangerous materials); and
- programmes and plans.

Details of regulations are subject to special law. Emission into and quality standards for air, water and soil as well as control instruments shall be prescribed by governmental regulations.

Matters such as the participation of companies in an eco-management and audit scheme (EMAS) as well as the issuing of eco-signs and monitoring aspects are regulated in more detail.

Passive and active access to information are dealt with in articles 78-80 of the LEP, and participation in decision making in articles 81-82. A number of provisions address the issue of environmental liability. The LEP details the rules for a newly created Environmental Fund.

The EIA and SEA laws and related subsidiary acts seem to comply with all EU prerequisites. Public participation in decision-making processes has been regulated insufficiently in the LEP, but the main provisions are stipulated clearly in the EIA and SEA laws and in the integrated permitting system established by the new IPPC Law. To what extent these provisions match the EU standards cannot be assessed since none of these laws is available in English. Nevertheless, inclusion of the principles of public participation and access to jus-

tion are remarkable since Serbia and Montenegro has not signed the Aarhus Convention yet.

Environmental law drafting in progress

There is no primary legislation in the drafting process in the field of horizontal legislation.

Obstacles, constraints, achievements and needs

The new LEP sets the framework for the environmental protection system in Serbia, based on modern and ambitious principles. It creates the legal basis for adoption of new legislation and defines the governmental obligation to adopt specific plans for all environmental areas. This is a first step towards a comprehensive environmental protection system, but it needs to be supported by adoption of sector legislation imposing concrete rights and obligations.

The first draft of the new law was agreed upon by the Serbian government on May 17, 2002 and then passed on to the Parliament for deliberation. The parliamentary debate on the draft law took almost two years, during which time more than 70 amendments were attached to the bill.

It will require the adoption of supplementary specific laws, not to mention secondary legislation and subsidiary acts, estimated to be at least 80 separate acts,¹² to make the new LEP applicable. During the drafting process, it is necessary to take care of harmonisation of laws with the *acquis communautaire*, as well as with each other, and notably the LEP as a framework law.

Water quality

Competent authorities

The competence for water management is divided. Though the MSEP is in charge of all pollution related aspects of water management, a number of tasks — mainly water supply related — remain within the competence of the Ministry of Agriculture and Water Management. The Ministry of Justice and Local Government is responsible for waterworks, whereas urban water services are delegated to the municipalities.

Laws and regulations in force

For the time being the Law on Waters (OG of Serbia, No. 55/96) is the main legal basis for the protection, use and management of waters. The law covers surface, groundwater, drinking water, thermal and mineral water, water bodies within Serbia and transboundary water flows. The law is supplemented by a number of by-laws, mainly rulebooks, which address, for instance, the monitoring of water quality, permit-

ting of water usage and hazardous substances in water. Drinking water standards are based on guidelines of the World Health Organization on drinking water quality and EU directives for drinking water. There are no standards in place for bathing water.

Status of legislation

The division of competences has, in the past, hampered effective implementation of water protection policy. Pursuant to the new LEP, protection and use of water shall be realised within the integrated water management through the implementation of measures for preservation of surface and ground waters and their reserves, quality and quantity, as well as through protection of watercourses, waterfronts and courses in accordance with special law (Article 23, LEP).

Since the Law on Waters is not available in English, its status as concerns its compatibility with EU requirements cannot be assessed.

Environmental law drafting in progress

At present a new Law on Waters in accordance with EU legislation is being drafted by the Directorate for Water Management within the Ministry for Agriculture and with support from the EAR.

Obstacles, constraints, achievements and needs

Legal drafting needs on new water legislation have been ranked a high priority by both respondents in the answers to the questionnaire of the author. The development of a strategy against water pollution — but not new legislation — has been given priority status in the Serbian Government Action Plan as well.

Air quality

Competent authorities

The competence for designing policy plans and strategies and to develop laws and regulations for air protection falls under the competence of the Environmental Directorate within the MSEP.

Laws and regulations in force

In the new LEP, air protection is addressed mainly in two articles. Article 24 states the principles and activities to be undertaken for air protection in Serbia, including measures of systematic air quality monitoring, reducing air pollution to regulated limit values, undertaking measures for emission reduction, and monitoring polluted air impact. Article 10.4 of the LEP empowers the government to adopt a specific law for air protection.

Until the LEP was adopted in late 2004, the 1991 Law on Environmental Protection was the only primary legislation regulating air protection related matters. It refers to subsidiary legislation such as:

- the Regulation on Critical Values, Air Quality Measuring Methods, Selection of Sample Points Criteria and Data Collecting (1992);
- the Regulation on Emission Limit Values, Methods and Timeframe for Measuring and Data Noting (1997); and
- the Decrees on Defining Air Quality Control Program (2000, 2001, 2002 and 2003).

Other regulations include requirements for setting up ambient air quality improvement plans or programmes, regulations for point sources, and regulations for mobile sources for some pollutants.

Status of legislation

The existing legislation does not comply with the acquis, especially as concerns the emission and ambient air quality standards set there.

Environmental law drafting in progress

A Law on Air Protection is being drafted under the coordination of the MSEP. Experts from the Environment Capacity Building project are expected to contribute to the drafting process.

Obstacles, constraints, achievements and needs

According to the Action Plan for the Harmonisation of Laws, the development and adoption of an air pollution strategy plan is a priority of the Serbian government.¹³

Nature protection

Competent authorities

The MSEP is the competent authority for nature protection. Within the Directorate for Environmental Protection, one division is dealing with nature protection and sustainable use of natural resources.

Laws and regulations in force

The Law on National Parks (OG of Serbia, No. 39/93) regulates the protection, development inspection and management of areas that, due to their ecological, bio-geographical or other characteristics, represent areas of special significance. Additionally, there is a Decree on Protection of Natural Rarities (OG of Serbia No. 53/93) in force, through which some 427 animal species and 215 rare, endangered and endemic plant species are protected.

The Decree on Control of Usage and Trade of Wild Flora and Fauna (OG of Serbia No. 31/05) protects those wild plant and animal species that are used for human food, medicinal herbs or other purposes. The protection is aimed towards the control of usage, conservation of population densities and biological equilibrium. Other relevant laws in this field relate to hunting, fishing and forestry. The new LEP contains a special chapter concerning Management of Natural Resources comprising the planning and use of natural resources and the protection of natural resources.

The Federal Republic of Yugoslavia ratified the Convention on Biological Diversity on November 5, 2001. The respective norm transposing its provisions into the domestic legal system is the Resolution on Biodiversity Conservation Policy in the FRY (OG of FRY No. 22/94).

Status of legislation

The revision of existing legislation will be done by drafting a new law on nature protection. Further work needs to be carried out for full approximation of the nature protection acquis.

Environmental law drafting in progress

According to Article 10.3 of the LEP, a special law and other regulations shall be adopted for the protection of nature. The law stipulates basic additional rules, for example:

protected natural goods shall be used and developed in the manner that enables their permanent preservation and advancement in accordance with the law on nature protection.

At present a Law on Nature Protection is being drafted under the coordination of the MSEP. The law is expected to be finalised in 2006.

Obstacles, constraints, achievements and needs

Integrating the requirements of the Habitat and Birds directives is considered of the most urgent legal challenges to reforming the existing nature protection legislation.

Waste management

Competent authorities

Waste management responsibilities are shared between municipalities and the MSEP. Within the Directorate for Environmental Protection there exists a special unit dealing with waste management. The MSEP is in charge of the development of an overall waste management policy and the elaboration of waste legislation harmonised with EU laws.

Laws and regulations in force

The Law on the Handling of Waste (OG of Serbia, No. 25/96) regulates non-hazardous wastes that can be used as secondary raw materials, as well as the methods for their collection, processing and storage. The Rulebook on Conditions and Methods of Classification, Packaging and Storage of Secondary Raw Materials (OG of Serbia, No. 55/01) contains lists of wastes and the catalogue of wastes coordinated with EU requirements.

The Regulation on the Handling of Waste Products (OG of Serbia, No. 12/95) defines and classifies waste according to the Basel Convention and stipulates rules on the temporary storage of hazardous waste and record-keeping provisions.

The Rulebook on the Criteria for Determining the Location and Organisation of Waste Landfills (OG of Serbia, No. 54/92) prescribes the criteria for determining the location and organisation of waste landfills from an environmental protection point of view.

Status of legislation

The legal regime on waste management is characterised by a long list of laws and rulebooks; the national waste management strategy lists some 40 relevant pieces of legislation. Nevertheless, the system is considered fragmented, inadequate and largely inconsistent with EU legislation. Current legislation on hazardous waste addresses hazardous substances more than wastes. Most of the legislation does not assign clear obligations and tasks to specific persons and entities.¹⁴

The handling of waste has become a political priority following the *State of the Environment* report in Serbia in 2001. A first national strategy for waste management was adopted by the Serbian government in 2003, and a feasibility study on hazardous waste was drafted soon after.¹⁵

The waste strategy introduces a waste hierarchy in accordance with the EU waste policy and promotes efforts to prevent waste generation, optimise recycling and recovery of materials, recover thermal energy from waste and make minimum use of landfills.

With respect to the transboundary movement of hazardous wastes, regulations at the state-union level are relatively well elaborated, based on the provisions of the Basel Convention. Each case of import, export and transit of such wastes is subject to permit and the issuance of permits by the competent authority. However, according to Article 57 of the LEP, the import of hazardous waste is now prohibited.

Waste incineration plants are covered by specific regulations, and other specific requirements apply to landfills. In addition, there are provisions and plans to manage the problem of existing landfills in a given time-frame. No specific waste management regulations have been developed regulating or covering the production phase and improvement strategies for waste oils, PCB/PCT, asbestos and end-of-life vehicles.

Environmental law drafting in progress

A first draft of the new waste law was prepared under an EAR/SCEPP (Policy and Legal Advice Centre) supported project in 2003. A version agreed by several ministries was finished in January 2004. A final draft waste law is being prepared. Experts of the EAR-funded project Environment Capacity Building have been involved in the drafting process to a small extent. The new waste law would be a framework law setting the legal basis for the adoption of further sub-laws on waste streams such as packaging, batteries and end-of-life vehicles.

Article 30 of the LEP, which deals with waste management, stipulates that new rules shall govern the system of collecting, transport, treatment and disposal, including supervision of activities and facilities for waste treatment which have been closed.

Obstacles, constraints, achievements and needs

The current legal situation for waste management is insufficient and far from being in line with EU standards. Since the whole waste law system in Serbia is under review, a substantial improvement may soon be achieved. The deadline for passing new laws and by-laws in this area is the end of 2005. The new law and by-laws are planned to be drafted in compliance with EU legislation. It remains to be seen how well the new comprehensive waste legislation will address all aspects of the sophisticated European waste management regime, considering how quickly it is being drafted.

Industrial pollution control and risk management

Competent authorities

Several authorities on both the state-union and republic level have been involved in the administration of industrial activities from an environmental point of view. The new LEP, and particularly the new IPPC law, will offer more clarity on the matter.

Laws and regulations in force

Pursuant to Article 37 of the LEP, the operation of plants that:

may have negative impact on human health and environment shall require an integrated license which shall secure the prevention and control on the environmental pollution. Types of activities and plants, requirements and procedure for the issue of integrated license, control and other issues relevant for IPPC shall be governed by special law.

A new IPPC law, developed with technical support of the YUGOLEX project, was adopted in late 2004.

As concerns the prevention of industrial accidents,

Article 38 of the LEP requires persons running activities that involve or may involve hazardous substances in certain quantities to elaborate an “accident risk assessment” during the EIA process or when applying for an integrated permit.

According to the LEP, accident risk assessment shall be made on the basis of a special methodology prescribed by the minister, and shall contain the conditions for risk management referring to the realisation of prevention, preparedness and accident response, as well as measures for elimination of accident consequences.

Status of legislation

Until the adoption of the new LEP and the IPPC law, the operation of industrial activities was said to be characterised by a high number of laws and regulations with many redundancies and legal gaps.¹⁶

Though the English version of the IPPC law was not available to the author, the brief explanation of the main legal provisions by the MSEP implies that the law follows the approach of the IPPC Directive and is widely compliant with its prerequisites. The current provisions of the LEP set the basis for a comprehensive system for the operation of industrial activities, but further subsidiary legislation needs to be developed for full transposition. Existing regulations on methodology for accident risk assessment should be revised and defined in accordance with requirements of the SEVESO II Directive.

Environmental law drafting in progress

A number of sub-laws are required to make the IPPC law fully applicable in practice. The drafting and adoption of these sub-laws was in progress in 2005.

Obstacles, constraints, achievements and needs

The adoption of the new IPPC law is a significant step forward in setting up the regulatory framework for the operation of industrial activities. Nevertheless, further subsidiary regulations need to be adopted in order to set an effective system in place. The same can be said about putting the requirements of the Seveso Directive into practice.

Chemicals and GMOs

Competent authorities

The MSEP is in charge of the management and regulation of chemicals, whereas the Ministry of Agriculture claims responsibility for GMOs in Serbia.

Laws and regulations in force

There are two laws addressing chemicals in a broad

sense, both at the state-union level. The Law on the Transport of Hazardous Substances (OG, No. 45/90) stipulates conditions for the import and transit of hazardous substances and determines transport safety measures and requirements for expert permits.

The Law on the Production of and Trade in Poisonous Substances (OG, No. 15/95) qualifies chemicals (substances and preparations) as hazardous on the basis of the OECD/EU classification system. The Book of Regulations on the Methodology for Risk Assessment of Accidents Caused by Chemicals (OG Republic of Serbia No. 60/94) covers the estimation, preparatory measures and measures for elimination of consequences of accidents. It defines the methods of registration of types and quantities of hazardous substances in production, use, transport, traffic, storage and disposal.

At the state-union level the Law on Genetically Modified Organisms (Official Journal of the FRY No. 18/2001 of May 8, 2001) regulates the field of modern biotechnology (genetic engineering). This law addresses the conditions of the contained use, introduction in production and trade of GMOs and products made of GMOs, and the conditions and measures for the prevention and elimination of undesired effects of contained use.

Status of legislation

The procedure for classifying hazardous substances is not in line with EC requirements. Moreover, there are no provisions for classifying preparations. Responsible persons are required to inform the competent authorities about hazardous substances used or handled, and to keep records. Hazardous chemical substances require special classification, packaging and labelling. However, there is no legal distinction between new and existing substances with regards to the procedure for placing them on the market.

Poisons are placed on the market after receiving a permit on the basis of toxicological assessments, which are not comparable to risk assessments since they are merely hazard assessments. In terms of labelling and packaging the current legislation has been assessed to be generally in compliance with the EC requirements.¹⁷

The provisions of the GMO law were defined pursuant to corresponding EU directives. The law contains only the most basic framework provisions, while the operational part is to be regulated by eight subsequent by-laws. The law does not prohibit the use of GMOs, but instead places them under strict control. To make the procedure for approving the applications for working with GMOs and for products made with GMOs more objective and transparent, a National Council for Biological Safety has been formed. It consists of a team of experts from different fields who evaluate the

method in which experiments were performed and identify and assess the risks and validity of the results, based on both the study documents submitted and international practice.

Environmental law drafting in progress

A completely new law on chemical management is under preparation within the MSEP in Serbia. Several steps have been taken to draft a modern and comprehensive law that complies with existing EU requirements and matches Serbian needs and possibilities to secure proper implementation.

No information is available on environmental law drafting in progress on GMOs.

Obstacles, constraints, achievements and needs

The new law on chemicals of the Republic of Serbia will replace the existing legislation at the state-union level and will set the legal basis for the adoption of the comprehensive legislative system for chemical management.

Since the adoption of the GMO law in May 2001, significant progress has been made in the regulation of this field within the framework of the agricultural sector. Regulation includes border controls, authorised reference laboratories, and links with similar organisations in European countries, especially with the countries of Central and Eastern Europe. State representatives also participate in the formation of the Balkan Forum for Biological Safety.

Noise

Competent authorities

The MSEP is the competent authority for noise protection related matters.

Laws and regulations in force

There are a few noise emission limits stipulated as part of product standards and specific product standards for selected household appliances.

Status of legislation

No information is available on this topic.

Environmental law drafting in progress

Article 10.8 of the new LEP empowers the Serbian government to develop and enact a special law for protection against noise and vibrations. No such law is yet under preparation.

Obstacles, constraints, achievements and needs

No information is available on this topic.

Nuclear safety and radiation protection

Competent authorities

As the primary institution in charge of health related matters, the Ministry of Health was the competent body for radiation protection at the federal level before the adoption of the Constitution on the State Union. The MSEP is now in charge of waste management, including radioactive wastes and nuclear safety.

Laws and regulations in force

The Law on Protection from Ionising Radiation (No. 46/96) is one of two primary laws on nuclear protection in Serbia. It is supplemented by two rulebooks: the Rulebook on Locations and Time Intervals for Systematic Examination of Contents of Radio Nuclide in Environment with Early Detection and Notification of Environmental Radioactive Contamination (OG of SFRY 84/91) and the Rulebook on Maximum Limits of Environmental Radioactivity Contamination and Decontamination (OG of SFRY 8/87, 27/90).

Status of legislation

The collection, transport and final disposal of radioactive waste is regulated by Law No. 46/96, six complementary decisions on nuclear safety and 11 decisions on radiation protection. The law bans the import of radioactive waste, but the current storage of radioactive waste is a critical issue since it does not comply with the legal requirements of the domestic legislation.¹⁸

The other primary law is the Law on the Prohibition of Construction of Nuclear Plants of 1995, which explicitly prohibits the planning and erection of new nuclear power plants.

Environmental law drafting in progress

A new law on non-ionising radiation and nuclear safety is in the legal drafting process and expected to be finalised by the end of 2005. The law shall replace the above mentioned legislation. A new law on non-ionising radiation is also in the final drafting stage.

Obstacles, constraints, achievements and needs

No information available is available on this topic.

Conclusions and recommendations

Serbia seems to be making relatively good progress towards legal approximation. The LEP is impressive for its far-reaching legal principles, which are stipulated for the first time. While it is extremely important to have a good environmental law as a starting point for a comprehensive legislative system, one should not overlook the tasks ahead in developing the required subsidiary legislation. Being a framework law, the LEP sets the legal basis for the adoption of the different sector-specific regulations, defining concrete rights and duties, and backed up by an effective enforcement system.

The process of approximation would be greatly facilitated by the adoption of an approximation strategy covering all the sectors of the *acquis* and defining clear milestones for the adoption of relevant regulations. The future NEAP will also help with the prioritisation of legal drafting tasks.

It seems that the new horizontal laws on EIA and SEA, and the establishment of the integrated permit system/IPPC are largely compliant with EU law. According to the MESP, the new laws on SEA, EIA and IPPC prescribe in detail public participation in all phases of their respective procedures. Access to information certainly needs to be regulated in more detail within the LEP.

Framework laws on water, waste, nature protection and air are in the process of being drafted. Once they are adopted again, however, subsidiary regulations will be required to reach full compliance with the *acquis communautaire*.

Bathing water standards are to be adopted in line with the Water Framework Directive and its respective daughter directive now in the pipeline.

Air quality standards and nature conservation provisions are to be aligned with the environmental *acquis*. The conservation provisions should also be a preparation for the introduction of Natura 2000.

More emphasis should be placed on the regulation of harmful noise.

Similar to other countries in the region and also the new member states, the position of the Ministry of Environment needs to be strengthened in order to ensure that higher priority is given to environmental issues on the government's political agenda. The Environmental Directorate in the MESP lacks the human resources needed for the law drafting process — a significant obstacle. Despite these deficiencies, the recent progress is quite substantial, especially where foreign technical assistance was received. If Serbia is to remain on this track, it will definitely require ongoing and intensified external technical assistance.

Information sources

Several information sources were made available for the country report on the Republic of Serbia. Most sources are accessible via—internet. A translation of the recently adopted Law on Environmental Protection (LEP) was sent to the author, but unfortunately this was the only law from Serbia available in English.¹⁹ For this reason, the second part of the report could not analyse the status and quality of existing legislation as well as hoped.

Information on the YUGOLEX project, which has been providing substantial technical assistance on horizontal legislation, is accessible on the project webpage <www.yugolex.org.yu>. Information on the EAR project Environment Capacity Building Programme 2003 is also partly available on the webpage of the MSEP. Additional information was given verbally by one of the project experts.

The Serbian government and the Ministry of Science and Environmental Protection (MSEP) have made several policy papers accessible at <www.ekoserb.sr.gov.yu> and at <www.seio.sr.gov.yu>.

The questionnaire sent to the MSEP was answered and returned by two people intensively involved in the legal approximation process: Mrs. Jelena Cvetkovic from the Department for European Integration within the MSEP, and Mr. Slavko Bogdanovic, the domestic team leader of the YUGOLEX project.

A meeting took place in the MSEP with Mrs. Cvetkovic on February 16, 2005.

Other papers, such as the *Stabilisation and Association Report 2004*, an extract from the government's *Action Plan Partnership* and the *UNECE Environmental Performance Review Report 2002* served as additional sources of information.

ENDNOTES

- 1 See UNECE Report *Environmental Performance Review 2002*, page 11 ff.
- 2 This article repeats the wording of Article 52 of the Constitution of FRY.
- 3 A draft national strategy has since been published on the Internet.
- 4 See UNECE Report, page 15.
- 5 This material was taken from the Phase 1 report of the project Assessing Environmental Law Drafting Needs in South Eastern Europe.
- 6 Law Establishing Particular Competencies of the Autonomous Province (published in the OG Republic of Serbia No. 6 on February 7, 2002).
- 7 According Ms. Jelena Cvetkovic of the MEAP.
- 8 The Serbian Government Action Plan for Meeting the European Partnership Priorities, 2004, extract "Environment." No. 50-60.
- 9 Recommendation of Mr. Slavko Bogdanovic, local project director of YUGOLEX in response to the questionnaire of the author, based on his drafting experience within the project.
- 10 "Development of Environmental Legislation in Serbia and Montenegro (YUGOLEX)," *Compendium of Achievements: The REC's Contribution to a Sounder Environment for Serbia and Montenegro* (2001/4), page 49 f.

- 11 See Articles 123 and 12 of the law respectively, and Articles 124 and 65 as concerns the action plans.
- 12 Assessment of the legal expert Mr. Kroiss of the EAR-funded project Environment Capacity Building Programme 2003.
- 13 Information from the MSEP.
- 14 See evaluation in UNECE Report, page 98.
- 15 The National Waste Management Strategy, including the programme of harmonisation with the EU, Belgrade 2003.
- 16 UNECE Report, page 141
- 17 Michael J. Warning and Gerd Winter, *A Study on the Future Legislation on Chemicals in the Republic of Serbia*, prepared under the project Assistance in Environmental Law Drafting in SEE financed by the European Community through the REReP. 2003.
- 18 UNECE Report, page 92.
- 19 The author was told in Belgrade on February 16, 2005 that the most recently adopted laws on EIA, SEA and IPPC would be translated into English by the end of March. The YUGOLEX webpage contains full Serbian text versions of these laws (in June 2005 English text versions were added).

■ KOSOVO

Note: Reference to Kosovo in this document is made in the spirit of United Nations Security Council Resolution 1244 and should be understood as a territory under UN interim administration.

Environmental law making

Environmental legal set-up

After the end of the conflict in 1999 the United Nations became the de jure government in Kosovo and established the United Nations Interim Administration Mission in Kosovo (UNMIK) under the authority of the Special Representative of the Secretary General (SRSG), whose powers are defined in UNMIK Regulation 1999/1, on the Authority of the Interim Administration in Kosovo of July 25, 1999.

Notably, the Federal Republic of Yugoslavia (FRY) and the Republic of Serbia legislation that was adopted between March 23, 1989 and 1999 does not have legal or practical relevance in Kosovo. This is a consequence of the application of UNMIK Regulation 2000/59 amending UNMIK Regulation No. 1999/24, which stipulates in section 1.1:

The law applicable in Kosovo shall be:

- (a) The regulations promulgated by the Special Representative of the Secretary-General and subsidiary instruments issued thereunder; and
- (b) The law in force in Kosovo on March 22, 1989.

In case of a conflict, the regulations and subsidiary instruments issued thereunder shall take precedence."

Due to its status, Kosovo is not in a position to sign or ratify any international conventions. Nevertheless, it is claimed that in present legislation Kosovo respects most objectives and principles of multilateral environmental conventions and agreements.¹

The Constitutional Framework of Kosovo contains direct reference to environmental protection as a priority state objective, but not as a human right. There are no laws or UNMIK regulations that give citizens a right to a healthy environment as such.

Environmental legislation drafting institutions

One year after the establishment of UNMIK, the SRSG issued UNMIK Regulation No. 2000/32 of May 24, 2000, which created the UNMIK Department of Environmental Protection (DEP) as a part of the Joint Interim Administrative Structures. DEP became responsible for activities related to the protection of water resources, air, soil and biodiversity, and was also made responsible for the implementation of strategies.

On May 15, 2001, the SRSG issued UNMIK Regulation No. 2001/9, A Constitutional Framework for Provisional Self-Government in Kosovo. This Regulation establishes the legal basis for the setting-up and development of self-government in Kosovo (under UN interim administration) and provides for the transfer of some governmental responsibilities from UNMIK to Provisional Institutions of Self-Government (PISG).

Pursuant to Chapter 5.1 (i) of this regulation, responsibilities of the PISG include "environmental protection."

Thereafter, the SRSG issued UNMIK Regulation No. 2001/19 On the Executive Branch of the Provisional Institutions of Self-Government in Kosovo of September 13 2001 and UNMIK Regulation No. 2002/5 amending this regulation. The effect of both regulations was the merging of the DEP and the Department of Spatial Planning into a newly created Ministry of Environment and Spatial Planning (MESP).

MESP also administratively assumed the portfolio of the Department of Housing and Construction and Department of Water Management. UNMIK Regulation 2002/5, Annex XI, provides MESP with the authority to "develop policies, implement legislation and oversee activities for the protection of the environment including water resources, air, soil and biodiversity," to "develop norms, standards and issue guidelines in the field of environmental protection with due regard to relevant international standards" and to "oversee adherence to such standards, including, where appropriate, conducting inspection and other services."

The MESP has been restructured several times. According to the latest organigram published on line <www.mmph.org> the ministry is sub-divided into five

departments with several sub-units that are also involved into the legal drafting process;

- Environmental Protection Department²
- Spatial Planning Department;
- Housing and Construction Department;
- Water Resources Managing Department; and
- Department of Administration and Professional Services.

Legal drafting process and approximation strategy

Kosovo has a system of dualism as concerns both the executive and also the legislative competences. As concerns the latter this means that each law and sub-law adopted by the Kosovo Assembly needs to be promulgated by an UNMIK regulation signed by the Special Representative of the Secretary-General in order to enter into force. Moreover, UNMIK reserves the right to adopt regulations in certain areas defined in Section 8 of the Constitutional Framework. Such UNMIK legal acts can be both laws and administrative directions. The area of environmental protection as such does not fall under the provisions of Section 8 of the Constitutional Framework.

The procedure for adopting laws is determined in section 9.1.34 of the Constitutional Framework (Regulation 2001/9). The government, which consists of the prime minister and ministers, may propose draft laws to the Assembly (Section 9.3.2). All laws initiated and drafted by the MESP have to pass the Assembly of Kosovo in two readings before they can be adopted by the Assembly. Draft laws shall be considered by competent committees, which can propose amendments. Laws submitted by the MESP are usually reviewed by the Commission of Environment and Spatial Planning, which consists of 11 MPs. At the end of the second reading a draft law can be approved as a whole only. Once adopted it needs to be signed by the president and forwarded to SRSG for promulgation.

Apart from laws, the primary legal instrument is the sub-law in Kosovo. Though these sub-laws are sometimes translated and referred to as “administrative direction” the SRSG has made clear that PISG executive acts shall be called administrative instructions, guidelines or directives, not to cause a misunderstanding with the administrative directions issued by UNMIK. It is not clear to which extent those subsidiary legal acts are legally binding on the public.

In April 2003 the MESP prepared a report *Kosovo — State of the Environment* which highlights many areas of neglect: environmental pollution and degradation; waste continues to be dumped illegally; there is

little awareness or control over hazardous waste and air pollution from KEK’s (Kosovo Energy Company) facilities; and a lack of sewage treatment throughout Kosovo.³ The MESP has recognised the urgent priority of establishing a strong legal framework for environmental management.

According to Article 6.1 of the new Environmental Protection Law (EPL), which entered into force in April 2003, the government shall develop and submit to the Assembly a proposed Kosovo Environmental Protection and Sustainable Economic Development Strategy. Such a strategy was presented as a draft version in March 2004 and was completed in late 2004, but is still awaiting final approval. According to the EPL the strategy shall set goals and guidelines for environmental protection for a 10-year period. It shall include as a minimum proposed policies on the use of natural resources, proposed basic elements and conditions for providing environmental protection and proposed priority tasks and projects (Article 6 a, g and k of the EPL).

Obviously the strategy is not supposed to serve also as a direct tool for the legal approximation process. Nevertheless the draft strategy defines a number of legal goals and priorities.

The MESP is also required to submit every five years an Environmental Protection Programme that shall include “measures to be taken or standards to be established” for the protection of water, soil, air, biodiversity/nature, regulation of activities involving hazardous waste and dangerous chemicals and protection from noise and promotion of an integrated system of environmental protection (Article 7.1 EPL). Such programme has not been submitted yet.

Neither an environmental action plan, setting targets and defining key activities, nor a legal programme or activity plan have yet been developed. In the draft Environmental Strategy it is admitted that due to several factors such as long term isolation, lack of administrative capacity, and the tolerant attitude of the population towards environmental pollution, the strategy itself may not be implemented successfully.

According to a survey of the MESP in 2002 only one out of 27 municipalities has some local environmental regulations while 15 have rules that do also concern environmental matters and 11 have no environmental rules at all.

Environmental law drafting priorities

The only planning document existing to date is the above mentioned strategy, which is still awaiting its adoption. No approximation plan or strategy has been prepared so far. According to the employees of the MESP the draft Kosovo Environmental Strategy identifies the main priorities for legal drafting activities for the next years. The draft environmental strategy lists the following legal priorities:

- strict implementation of the existing legislation for environmental protection as well as completing as soon as possible the missing legislation⁴;
- completing legislation for air quality in conformity with EU directives;
- approval of laws and regulations for water users in conformity with EU laws and regulations;
- drafting of the law for nature protection in harmony with modern international standards for nature protection;
- completing legal norms for waste management based on EU directives;
- implementation of EU directives Seveso I and II;
- aligning legislation with EU directives on genetically modified organisms (GMOs);
- harmonisation of laws for nuclear safety and protection from radiation according to EU safety standards; and
- completion of legislation on responsibilities, authorisation and competences of environmental inspectorate for systematic and efficient implementation of control of environment and nature protection.

However, there is no ranking in terms of priority of the listed areas nor any specific time schedule mentioned. The head of the legal office stated in his answer to the questionnaire that legal priorities would be set by the MESP.

The answers to the questionnaire reconfirm this picture. When asked for the priority status of the nine fields of the *acquis*, all environmental areas were named either three (horizontal legislation, waste management, noise protection, nuclear/radiation) or at least two times (water protection, air protection, nature preservation, industrial risks, Chemicals/GMO) as high priority areas. Hardly any topic area was declared a medium or low priority.

Lessons learned from international assistance

The YUGOLEX environmental legislation drafting project, the primary legal support project for Serbia and Montenegro, does not address environmental legislation in Kosovo.

October 2003 saw the launch of the project Institutional Support for Environmental Management to the MESP, an initiative of the European Agency for Reconstruction (EAR) under Community Assistance for Reconstruction, Development and Stabilisation (CARDS). This wrapped up in March 2005; a second phase was envisaged to commence directly afterwards.

The objective of this project is to provide institutional

support to define and establish strategies, policies, concepts, procedures and capacities required for managing, implementing and enforcing environmental policy.⁵

As far as legal drafting is concerned the project focused on the following activities:

- amending the water law and drafting a detailed legal commentary;
- amending the final environmental impact assessment (EIA) administrative instructions, and drafting EIA guidelines for the MESP staff;
- drafting legislation on the extraction of gravel from river-beds;
- drafting a new nature protection law;
- drafting a waste management law;
- drafting soil protection administrative instructions; and
- elaborating guidelines for regulating air emissions.

All legal drafting activities were complemented by the drafting of detailed legal commentaries. Furthermore, MESP staff have been trained on the basics of EU environmental legislation in several areas, in particular waste management and nature protection. The project has provided for intensive English language lessons for ministry staff to overcome language barriers.

According to MESP staff, further legal assistance was granted by EAR in 2002 for the drafting of the Environmental Protection Law (EPL, see below), by the European Centre for Minority Issues (ECMI) for the drafting of a law on nature conservation, and within REReP 1.3 and the above-mentioned CARDS project for the drafting of EIA administrative instructions.

The EPL was approved by the Cabinet of the Government and forwarded to the Assembly of Kosovo on October 1, 2002. The Assembly accepted the law after its first reading. It was then forwarded to several parliamentary committees for review.

Regarding the EPL drafting assistance from international experts, positive and negative feedback have been given. According to MESP staff, the EPL was weakened due to attempts by external legal advisors in the PISG and Assembly to make a number of amendments and delete a range of clauses or even chapters. For instance, the EPL includes in Article 2 more than 30 definitions, but some of the terms defined do not appear again in the law (e.g. "hazardous waste" and "genetically modified organisms"). Other provisions which were lacking consistency included ones on emission standards, the polluter pays principle, inspections of imported hazardous materials and rehabilitation of soil and water impacted by exploitation of natural resources.⁶

It seems international advisors have had extraordinary influence on the environmental law making process

in Kosovo, not only regarding UNMIK/SRSG as the competent institution to promulgate a domestic law but also regarding the elaboration of laws by legal advisors.

Furthermore, members of the Assembly who are not the targets of legal drafting assistance projects often change the drafts submitted by the MESP. The head of the Environmental Policies Division in the MESP complained that draft laws submitted to the Assembly “are changed so much that in practice it is impossible to implement it and at the same time it is in conflict with EU law.”

A lack of coordination between various governmental institutions — as well as lack of experience in drafting laws — has been identified as a major obstacle to the laws’ proper functioning. Other problems include a lack of financial impact assessment and lack of functioning legal drafting working groups to avoid inconsistent legislation.

Legal drafting cooperation

When asked what sort of law-drafting assistance was needed, three ministry staff asked for technical assistance on the spot, along with written consultation and advice. Two MESP staff members cited assistance through “questions and answers.”

Phone or Internet conference support was not considered helpful. The MESP confirmed its interest in external expertise from international environmental lawyers. Generally, two approaches to technical assistance were considered most beneficial:

- Bringing in international legal and technical experts from EU member states for legal drafting assistance. These experts should work together with local staff and jointly elaborate draft laws rather than merely commenting on drafts already developed by ministry staff.
- Sending ministry staff for long-term training sessions to new member states that are not that far ahead of Kosovo in their environmental approximation process as well as to countries with long environmental traditions.

Training should focus on both specific environmental and spatial planning topics as well as law-drafting techniques. Also, all EU environmental directives should be translated into the local language, beginning with the highest priority laws for legal approximation in Kosovo.

When drafting new legislation, the MESP staff has considered examples from other South Eastern European countries as well as EU member states. For instance, the drafting of Kosovo’s waste law was informed by examples from the Netherlands, the UK, Ireland and Bulgaria. The MESP cited the development of this law as a positive case study for the environmental legislation drafting process (see Box 4).

Respondents gave inconsistent answers to the ques-

tion of whether new draft laws were routinely compared with the EU acquis or the laws of SEE and EU member states. All four MESP staff claimed to run a comparison of their drafts with the EU acquis, three stated they considered the laws of another SEE state, but only two noted that they looked at the laws of an EU member state.

Obstacles and constraints

There are several obstacles and constraints which hamper successful environmental law drafting in Kosovo. The MESP staff itself cited the following:

- unresolved status of Kosovo and partly unclear competence of the PISG;
- risk that drafted laws do not correspond to real conditions in Kosovo;
- lack of adequate human resources in the MESP due to low ministry salaries;
- lack of local environmental law experts;
- lack of expertise and technical skills in environmental law drafting techniques; and
- lack of availability of relevant EU documents in the local language.

In addition, there is a lack of coordination of ongoing and planned activities by various donors trying to promote the drafting of new laws. As long as there is no agreed legal approximation strategy by the key players, new legislation will rather be patchwork.

Legal overview by environmental sectors

Three environmental laws have been drafted and adopted in Kosovo in the past few years, namely the:

- Environmental Protection Law (Law No. 2002/8);
- Law on Air Protection (Law No. 2004/30); and
- Kosova Water Law (Law No. 2004/24).

Additionally three “administrative instructions” have been issued:

- Administrative Instruction for Environmental Impact Assessment;
- Administrative Instruction for Licensing Persons that Draft EIA Reports; and
- Administrative Instruction on Environmental Inspectorate.

Other laws that do not directly address environmental matters but have environmental relevance have been adopted by the Assembly:

BOX 4

Steps to the successful drafting of environmental legislation

- Technical study on the necessity of drafting a law
- Research on similar laws in the countries of the region (SEE)
- Comparison of those laws with EU directives
- Selection of the best model law
- Listing of problems and proposed solutions
- Development of technical draft in the competent MESP division focusing on substance and form of the law
- Establishment of a working group within the MESP and discussion of technical draft
- Establishment of working group within the government of Kosovo (participation of other ministries)
- Joint preparation of final draft for submission to Assembly
- Explanation of draft law by chairman of working group to parliamentary committee

- Regulation on Mines and Minerals in Kosovo (Regulation 2005/3);
- Law on Spatial Planning (Law 2003/14); and
- Law on Occupational Safety, Health and Working Environment (Law 2003/19).

Horizontal legislation

Competent authorities

As stated above, the competent authority for the drafting of all environmental laws is the MESP. For every law and administrative instruction to be drafted a working group is established. Usually experts and legal officers from the ministry lead the drafting process, which also involves international experts and sometimes experts from other institutions. The Board of Mines and Minerals within UNMIK Pillar IV (economic reconstruction) is in charge of licensing companies for extraction of sand and gravel. The licensing procedure requires only a very light EIA.

Laws and regulations in force

The main law is the new Environmental Protection Law (EPL), which was approved by the Cabinet of the Government and forwarded to the Assembly of Kosovo on October 31, 2002. In addition, the Act on Environment — passed in 1987/88 by the Parliament of the Socialist Autonomous Province of Kosovo (SAPK) — remains in force so far as it is not inconsistent with the new law. However, it has little relevance in practice.

EIA is incorporated in Section 4 of the Environmental Protection Law (Article 20 and 21). In 2004 the two

above-mentioned administrative instructions on EIA were issued by the MESP.

In addition to UNMIK Regulation No. 2001/19 and 2002/5, the SRSG issued UNMIK Regulation 2000/53 of September 25, 2000, on construction in Kosovo. According to Section 2.2, municipal authorities shall:

issue instructions for the application for and the issuance of construction permits, which, in accordance with the applicable law [...], shall specify, inter alia, technical, safety and environmental requirements; requirements relating to water, electricity and sewage connections for the proposed construction; and time limits for decisions by the municipality.

Status of legislation

The EPL is a framework law that was promulgated effective by the SRSG on April 15, 2003. Like other laws in Kosovo, it contains at the beginning a large article with an extraordinary number of legal definitions — more than 30. However, it is highly questionable to what extent the EPL is legally applicable and enforceable because most provisions are kept in general terms and require more detailed by-laws. These by-laws are foreseen to define specific rights and obligations of stakeholders, detailed procedural provisions, standards and thresholds for emissions and discharges, etc.

There are some basic provisions concerning environmental liability in the civil code, as in the criminal code and in the general administrative law. Basic rules of an environmental liability regime were introduced in Article 5 of EPL, which defines the guiding policy principles of environmental protection. They are as follows:

Principle of land-owner liability. The owner of property that contains dangerous pollutants or haz-

ardous waste is liable for reducing or abating the pollution unless it was the result of an activity by a non-private enterprise.

Principle of mandatory insurance. This requires persons engaged in activities involving high risks to third parties and environmental damage to carry “certain basic levels of insurance to cover potential liability to third person.” (It is unclear what is meant by certain basic levels; the first part of sentence refers to third persons AND environmental damage, the second part only to third persons).

Principle of subsidiary responsibility. This means that in cases where liability cannot be imposed on a person or undertaking, the government shall be responsible for bearing the cost in accordance with its financial ability.

Access to environmental information. This is not yet regulated. The MESP is required to organise and promote public awareness campaigns on environmental protection (Article 26.3 EPL).

Public participation. This is required in decision-making processes in EIA procedures, in compliance with EU directives (without setting details), but not in the clauses of the EPL referring to permitting or authorisation procedures. Article 19 of the Law on Spatial Planning requires a public review process in the creation of spatial plans. Transparent public participation is required but procedural details have not been elaborated.

Article 25 EPL introduces the environmental label as a promotion tool awarded by the MESP to manufacturers of environmentally friendly products. Procedures on how to obtain this label remain to be established by the MESP.

Environmental law drafting in progress

The author is not aware of any other instrument under the EPL currently being drafted.

Obstacles, constraints, achievements and needs

Politically, it seems that the relevance of the new EPL is intended to be low for the reasons cited earlier. The law focuses primarily on the establishment of basic rules, objectives and principles for environmental protection. Some provisions, including those on EIA and environmental accidents, are quite detailed but still need a number of additional legal instruments to become enforceable (lists of activities requiring EIAs, detailed decision-making procedures for governmental intervention plans for accidents, categorisation of hazardous substances, details about documents for preventing risks posed by persons and undertakings, etc.) As stated above, the law has several inconsistencies between the English and Albanian versions. Language and spelling mistakes in the original English version

exist even though this is an official law promulgated by UNMIK. This seems to be a common problem of new UNMIK legislation in general and is particularly evident in the EPL. Laws and amendments are often translated numerous times back and forth in the law making process because the SRSG needs to be informed on the texts and their revisions. The repeated translation process has been blamed for these inconsistencies between the Albanian and English texts.

However, this alone cannot excuse the negligent wording of the law. The EPL also has internal inconsistencies, including misleading references (e.g., Article 18 [a] refers to Article 13 though it must be 20, the definition of KEPA⁹ in Article 2 q refers to section — not Article — 42 though it must be Article 39.) Box 5 lists the shortcomings of the Environmental Protection Law.

Comparing horizontal legislation in Kosovo with corresponding EU environmental legislation, several achievements have been made:

An EIA regime has been introduced, although to what extent it is applicable depends on the quality of the subsidiary administrative instructions passed in 2004. Rules for strategic environmental assessment (SEA) have not been introduced yet.

As described above, the environmental permitting and authorisation system introduced by articles 22 and 23 in the EPL as a cornerstone of governmental environmental protection needs to be more finely regulated in order to become applicable and enforceable. Moreover, the legal relation between permits pursuant to the EPL and other laws has not been clarified. There is no integrated permitting system. The EIA and spatial planning provide for public participation rights, but the detailed procedural rights need to be put in place.

Water quality

Competent authorities

The management of all water resources (rivers, river beds, canals, lakes, groundwater, thermal waters, hydro-technical facilities, etc.) is the responsibility of the MESP. In addition, Article 16 of the Water Law defines responsibilities for the government, the water authority, the river basin district authorities and municipalities as “competent authorities for water management in Kosovo.” It remains unclear what is meant by “water authority” because this term is not further defined in the law.

Pursuant to the ELP, an additional Water Council of Kosovo was established as an independent advisory body. This body, which consists of seven members appointed by the Assembly, is to review and give opinions with regard to legislative proposals on water management (Article 17.3 Water Law).

On the other side, the SRSG established by law in

BOX 5

Environmental Protection Law Shortcomings

The lack of political will for an excellent law led to:

- incoherent provisions;
- poor translation of terminology which created inconsistencies between English and Albanian versions;
- incorrect or missing references within the law, and lack of references to other laws;
- lack of determination of obligations, procedural standards, technical standards, most of which were to be regulated in subsidiary laws; and
- little integration of public participation requirements.

2004 a “water and wastewater regulatory office.” This office, called a “regulator,” shall be responsible for regulating the activities of non-privately owned providers of water, and wastewater services in Kosovo.

Finally, UNMIK’s Transitional Department of Trade and Industry is assuming responsibility for regulating the water supply and wastewater sectors.

Laws and regulations in force

UNMIK Regulation No. 2002/5, Annex XI, gives the MESP the authority to “develop policies for the management of water resources and oversee their implementation.” It also gives the MESP the authority to develop strategies for the improvement of water quality and water protection.

According to Article 29 of the EPL: “the government after receiving a proposal from the minister [...] shall issue a subsidiary normative act” on water protection. This act shall establish prescribed permissible maximum levels for the discharge and emission of pollutants into the water. However, instead of a subsidiary normative act, a new Water Law (Law 2004/24) was promulgated by Regulation 2004/41 and entered into force on October 14, 2004. The Water Law was drafted with the assistance of the United States Agency for International Development (USAID) and Danish International Development Assistance (DANIDA).

This law is accompanied by another act, the Regulation on the Activities of Water, Waste Water and Waste Service Providers, issued by the SRSG on November 11, 2004, but not yet passed by the Kosovo Assembly.

Status of legislation

Similar to the EPL, the Water Protection Law is a good starting point but lacks a coherent approach, is unclear in several places, contains inconsistencies and does not regulate matters that urgently need regulation so that the law can be implemented. Moreover, the law stands on its own, i.e. it contains no links to other legal

acts, such as the EPL and its definitions and Article 29 on water protection, to the SRSG’s regulation of water service providers (or vice versa) or to the EIA regime. Another example is that both the EPL and the Water Law define the term “pollution” differently from the Water Protection Law.

The Water Protection Law, like the EPL, has a large section of definitions and principles on water management. It also introduces the instrument of “water permit,” which is required for water abstraction, wastewater discharge, mining activities which affect the water regime, and other activities that may affect the water regime (Article 56.1). The water permit, which shall be issued by the ministry or the district authority, is not required for the supply of household water.

Details of the procedure on how to issue the permit still require a subsidiary act of the MESP pursuant to Article 59. This means that a functioning regime for water permits is not yet in place. Additionally a water concession is required for certain kinds of use of water, such as technological needs, fishing, and irrigation systems. The procedure is not regulated and there is no clause explicitly calling for a subsidiary act on procedural details.¹⁰

The law does not stipulate any emission limits, thresholds or water quality parameters. Instead it states that “it is prohibited to use waters in a way that damages ecological or chemical conditions of natural lakes or waterflows” (Article 46.2).

In light of the findings of the *State of the Environment Report*, it is doubtful if such a prohibition clause — absent a definition of “damaging” — makes sense. In the same clause the content of Article 29 of the EPL is simply repeated, saying that “the government through a subsidiary act will define the limit values of effluents discharged into water.”

Environmental law drafting in progress

According to the responses to the questionnaire, there are no further legal acts being drafted in the field

of water protection at present. This means that no discharge or water quality parameters will be prescribed in the near future. It is also questionable whether water permits or concessions are compulsory in practice.

Obstacles, constraints, achievements and needs

The *State of the Environment Report 2003* points out that water quality in the lowland rivers is very poor because of a lack of wastewater treatment, while upstream rivers are mostly of very good quality. Some of the rivers are so polluted that their water cannot be used for water supply. Only 20 percent of homes are connected to a sewage system and wastewater is discharged in open channels. This situation requires urgent action both at the legislative and implementation levels. As explained above, the current legislative system is not very coherent and no drafting activities are planned in the near future.

However, there are positive indications. Strategic plans for water and water-management plans have been introduced and the government is obliged to issue a programme of measures for fulfil the objectives of those plans.

There is also an explicit provision for public participation in the drafting process of plans, though the law leaves open whether the public shall also be involved in water permit or concession procedures.

In order to make the key provisions of the law applicable it would be necessary to close the most relevant gaps by means of subsidiary legal instruments. For the time being, only a very basic and largely inadequate legal framework on the water regime has been created.

Air quality

Competent authorities

The MESP is the main competent authority for air protection, although the Health Ministry also has responsibilities in this field. The division of responsibilities between these two is unclear. Air pollution in Kosovo is a big problem; the main source of pollution is coal-fired power production located a few kilometres from road traffic.¹¹

Laws and regulations in force

The Law on Air Protection (Law No. 2004/30) was adopted by the Assembly on July 28, 2004 and promulgated effective by Regulation 2004/48.

Recognised applicable laws on air quality that date back to former Yugoslav regime times include the following:

- Law on Air Protection from Pollution adopted by the Socialist Republic of Serbia (Official Gazette Serbia No. 6/73 and No. 31/77);

- Regulation on the Time Periods and Manner of Examining Harmful Substances Released into the Air, adopted by the Ministry of Health, Social Policy and Labor of the Province of Kosovo, adopted in 1974 under the 1973 Law on Air Protection (Official Gazette Serbia No. 6/74);
- Regulation on the Manner and Time Periods of the Delivery of the Report on Measurements of Air Quality, adopted by the Ministry of Health, Social Policy and Labour of the Province of Kosovo, adopted in 1974 under the 1973 Law on Air Protection (Official Gazette Serbia No. 6/74); and
- Book of Regulations on Ways of Measuring Dangerous Substances Emitted into the Air (Official Gazette Serbia 31/78).

To the extent these laws do not conflict with the new Air Protection Law they remain theoretically applicable as they were in force before 1989. Both Kosovar and international experts have stressed that those laws are outdated and not in harmony with European or international standards.

Status of legislation

Like the Water Law, the Air Protection Law makes no direct reference to its legal basis in the EPL. The Air Protection Law does not establish standards for emissions or air quality. In this respect it follows the approach of the Water Law and authorises the government, based on a proposal from the MESP and the Health Ministry, to establish standards of air quality and discharges into the air (Articles 5 and 6). Those standards shall be based on EU standards. For existing pollution sources, the MESP shall propose temporary emission standards to be approved by the government (Article 7).

However, Article 7 goes further: in cases when — irrespective of temporary standards — pollution causes damage to human health and the environment, the MESP is authorised to order the closure of the pollution source. However, the criteria for defining “damage” are not set, so it is not clear what type of damage would justify the closure of a facility. For instance, the above-mentioned coal plants undoubtedly cause enormous air pollution and pose a threat to human health, but it is questionable whether the MESP would be in a position to close the facilities.

Environmental indicators for air quality need to be defined by subsidiary legislation (Article 4).

Monitoring of air quality is currently only sporadic. Pursuant to Article 23.2 the MESP shall define the criteria for determination of pollutants to be monitored, frequency of monitoring and monitoring sites.

Other parallels between this law and the Water Law include:

- The Air Protection Law introduces a system for

environmental permits (incorporating identical terminology as the EPL but with different meanings) to be issued by the MESP for construction, operating and other activities that cause pollution.

- A strategy for air protection shall be drafted by the MESP and shall determine the policy for air protection.
- A Kosovo programme determining action plans for air protection shall be drafted by the MESP alongside local programmes for air protection (unclear who should draft them).

However, in contrast to the Water Law there is no provision for public participation in the elaboration of any of these instruments.

Environmental law drafting in progress

According to Article 28 of the EPL, the MESP shall develop a proposal for a subsidiary normative act establishing permissible maximum levels for the discharge of emissions and pollutants into the air.

Obstacles, constraints, achievements and needs

The Air Protection Law introduces a few useful tools, principles and general obligations but is hardly applicable without technical standards and parameters or procedural provisions for the permitting regime. Moreover, there is a risk that the use of identical expressions (e.g. “environmental permit”) in different laws without defining the legal relationship between these permits may cause additional legal uncertainty.

Nature protection

Competent authorities

The Ministry of Agriculture, Forestry and Rural Development is in charge of forestry, agriculture and irrigation.

The Institute for Environment and Nature Protection (INEP) was created in 1974. INEP was later placed under the authority of the Department of Environmental Protection and the MESP by UNMIK. INEP maintains a cadastre of nature protection areas, while also implementing applicable laws regulating the Sharri National Park and other miscellaneous preserved areas in Kosovo.

It is not clear to what extent the MESP is responsible for nature protection and protection of biodiversity.

Laws and regulations in force

For the time being the main applicable law on nature protection is the Law on Protection and Development of Natural Values (Official Gazette Kosovo No. 39/88) from the former Yugoslav regime. Internationally recognised elements of nature conservation, such as providing special categories for protecting certain nat-

ural habitats, do not appear in the law. Chapter V of the EPL deals with nature protection, though this chapter consists only of two legal provisions, one on nature protection areas and one on biodiversity protection.

Additionally the new Spatial Planning Law allows for the protection of special areas by means of a spatial plan (Article 12 of that Law) to be drafted by the MESP. Further details are reserved for regulation by a subsidiary act.

Status of legislation

The EPL provides that “special legal protection acts for areas with valuable natural features” are to be drafted and adopted, but leaves open the question of who has the competence to initiate such a drafting process. Article 33 requires public participation in the decision-making process over nature protection measures, while leaving the means of carrying this out subsidiary regulations. Another subsidiary act to be drafted shall address measures for the protection of biodiversity; the government shall issue this act after obtaining the views of INEP. However, in contrast to the EPL, it was decided to include provisions on biodiversity in a new Law on Nature Protection.

Environmental law drafting in progress

According to the MESP, the drafting of a separate Law on Nature Protection has been completed with technical assistance from the European Centre for Minority Issues (ECMI). The draft law was completed in 2005 and only needed signature from the SRSG to enter into force. A draft Law on the Bjeshket e Nemuna National Park was also developed; both drafts had been submitted to the Assembly for approval in late 2004. A law on soil protection is in the drafting process. No further details as to the content of these draft laws are known by the author.

Obstacles, constraints, achievements and needs

It remains to be seen how far the new Law on Nature Protection will follow the rather limited and insufficient legal methodology of the water and air laws or if it will regulate details to such an extent that it can be directly applicable.

Waste management

Competent authorities

Though it is not stated explicitly in any law which central authority is responsible for legal drafting in the waste sector, the MESP considers itself the competent authority for waste management. However, neither the Constitutional Framework nor the EPL gives the MESP a legal mandate to draft waste legislation.

For the moment, the central authority responsible

for managing all non-private enterprises, including waste and water companies, is UNMIK's Kosovo Trust Agency (KTA) under UNMIK Regulation No. 2002/12 of June 13, 2002.

Laws and regulations in force

Besides the SRSG Regulation 2004/49 on waste service providers, relevant waste legislation dates from the former Yugoslav times.

The Law on Collection, Accumulation and Waste Storage (Official Gazette Kosovo No. 25/84) places requirements on the collection and handling of urban waste. Waste incineration is not addressed.

The transport of hazardous waste is addressed in the Law on Transportation of Dangerous Matter, adopted by Socialist Federal Republic of Yugoslavia (SFRY) in 1984. However, this law does not comply with international standards and it is necessary to establish rules and procedures for the import, export, transport, storage and handling of hazardous materials that are in conformity with European and international standards.

Status of legislation

The EPL defines the terms "hazardous waste" (not in line with the EU definition of hazardous waste) and "recycling" but has no provisions on waste management in the subsequent law text. Meanwhile, SRSG Regulation 2004/49 on waste-service providers defines a number of other terms such as "municipal solid waste," "waste collection service," "waste disposal service," and "disposal site." Neither law makes cross-references.

In addition, the DEP and MESP have been unsuccessful in obtaining UNMIK authorisation to implement Basel Convention requirements in Kosovo, including permission to assist in administering the export of hazardous materials.

Environmental law drafting in progress

The new comprehensive Law on Waste Management that was drafted by the MESP with international assistance had not yet been published or made available to the author; therefore its quality and applicability in practice could not be assessed. The law was approved by the Assembly but had not yet entered into force at the time this report was written.

It was not clear to what extent this law regulates waste management standards, procedures or obligations or how well it addresses different kinds of waste (household, industrial, hazardous, sewage) or specific waste streams like polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs), batteries or even packaging waste.

An administrative instruction for hazardous materials and waste, as well as demolition and construction materials has also been drafted. It is supposed to be adopted once the new waste law is in place.

Obstacles, constraints, achievements and needs

The *State of the Environment Report* lists the main challenges for waste management in Kosovo. In short, they are: inadequate control of urban waste, no reduction in the amounts and toxicity of urban waste, uncontrolled disposal of waste, and lack of recycling. Landfills are operated below standards and no waste classification system exists. There is no strategy, plan or programme for waste management.

Industrial pollution control and risk management

Competent authorities

No information is available on this topic.

Laws and regulations in force

An UNMIK regulation determines requirements for emergency responses for dangerous industrial activities. The UNMIK Department of Civil Protection proposed the regulation in cases of emergency.

Status of legislation

The integrated pollution prevention and control (IPPC) concept has yet to be incorporated into a policy or legal act in Kosovo. It was included in the MESP's first draft EPL in its general policy provisions but taken out after intervention from external advisors in the legal review process. Likewise the best available techniques (BAT) approach does not appear in applicable laws or UNMIK regulations.

Environmental law drafting in progress

No information is available on this topic.

Obstacles and constraints, achievements and needs

Industrial risks have barely been addressed by legislative drafting efforts, therefore serious efforts must be made to prepare a strategy and develop the required legislative framework for this sector.

Chemicals and GMOs

Competent authorities

No information is available on this topic.

Laws and regulations in force

Chemicals (substances and preparations) are qualified in Kosovo as dangerous on the basis of the classification system of the Organisation for Economic Co-operation and Development and the European Union (OECD/EU). Section 12 of the Law on Occupational Safety, Health and Working Environment (Law No. 2003/19)

requires that all chemical substances including pesticides shall be stored and used in accordance with European standards for control of substances hazardous to health.

Status of legislation

There are no applicable laws or UNMIK regulations that require “good laboratory practice” or other qualifying procedures for monitoring, evaluating or testing of chemicals, and there are no laws that deal with GMOs.

Environmental law drafting in progress

No information is available on this topic.

Obstacles, constraints, achievements and needs

No information is available on this topic.

Noise

Competent authorities

There is no clear competence for any ministry to address protection from noise. Nevertheless, the MESP has decided to deal with noise and elaborate a draft for a law on protection from noise. International expertise has been requested for the legal drafting process and the REC is expected to provide this.

Laws and regulations in force

There remain two legal acts from former Yugoslav times applicable, namely the Law on Noise Protection (Official Gazette Kosovo No. 9/87) and the Regulation for Limit Levels in Decibels for Noise Pollution (Official Gazette No. 24/88).

Status of legislation

None of these acts establishes specific product standards for household appliances.

Environmental law drafting in progress

No information is available on this topic.

Obstacles, constraints, achievements and needs

No information is available on this topic.

Nuclear safety and radiation protection

Competent authorities

It remains unclear which ministry or other governmental institution is in charge of nuclear safety and radiation protection.

Laws and regulations in force

The EPL includes an article on ionised radiation and

radioactivity protection. No information is available with regard to further regulations in this area.

Status of legislation

Article 32 of the EPL, dealing with ionised radiation and radioactivity protection, speaks of “relevant ministries.” This article forms the legal basis for the government to “set the criteria and levels that need to be undertaken from emission and radioactivity” (32.4). Such a by-law shall also determine conditions and procedures for research, monitoring, and reporting on radioactive substances in the air, water, soil, flora and fauna, drinking water and food particles.

Environmental law drafting in progress

There are no current activities concerning the drafting of a normative act on radioactive protection.

Obstacles and constraints, achievements and needs

No information is available on this topic.

Conclusions and recommendations

The process of approximation of the environmental acquis is still in its very early stages in Kosovo. Only three laws have been adopted in recent years (on water, air protection and environmental protection) and two laws (waste and nature protection) seem to be pending. However, all these acts are of poor legal quality and none of them comply with EU legislation. Perhaps the biggest concern is that the laws are incoherent, have unclear legal terminology and do not assign clear obligations and rights to parties.

Apart from common problems in the legal drafting process in virtually all SEE countries (lack of adequate human resources, low salaries, lack of expertise and technical skills in environmental law drafting techniques, and the lack of availability of relevant EU documents in local language) Kosovo is confronted with the peculiar situation of its unclear political and legal status.

The requirement to translate legal drafts back and forth between Albanian, Serbian and English before they are adopted may contribute to the unclear wording.

A substantial step towards legal harmonisation with the EU acquis, would be to amend the entire framework legislation so that it can serve as a clear legal basis for further by-laws. A gap analysis, which apparently has not been conducted in any area, should accompany the drafting process.

Laws should be linked to establish a functioning environmental protection system which designates clear rights, obligations, and procedures. As a next

step, by-laws and laws in other priority areas should be drafted to fill the remaining gaps.

A clear division of powers and allocation of competences should be established in areas such as water management, air protection, waste management and noise abatement.

It is obvious that substantial international assistance will be required for these challenges. Such assistance should be given by legal and technical experts on a continuous basis and include training activities — especially for MESP staff. It would certainly contribute to a better drafting process if representatives of the SRSG/UNMIK were involved at an earlier stage. It would also help if all stakeholders would agree on an overall goal of creating an up-to-date and functioning environmental protection system strictly based on the rule of law.

Information sources

All legislative acts adopted in Kosovo since 1999 can be found in English on the Internet at <www.unmikonline.org/regulations/index.htm> including the relevant laws in the field of environmental protection.

A questionnaire sent to the Ministry of Environment and Spatial Planning was answered by four staff members or advisors of the ministry (Department of Environment, Legal Office). Some information was provided by a contractor of the CARDS project Support to the MESP.

Another main source of information was the draft environmental strategy of the MESP.¹³ Additionally, material was collected by the author of this report in 2003 during an assignment within REReP 1.3, a project focused on technical assistance for the EIA legislation process. No further meetings with representatives from Kosovo could be arranged for this report.

ENDNOTES

- 1 See draft Environmental Strategy, chapter 1.7.
- 2 The questionnaire had been answered by the head of the Division of Environmental Protection and the head of the Environmental Policies Division, both within the Department of Environment and the head of the legal office.
- 3 See Kosovo State of the Environment Report, MESP, April 26, 2003.
- 4 This is called a short term objective, chapter 1.6.2 and the main environmental priority for the period 2005-2015, chapter 2.9.
- 5 See Six Monthly Report of the project, dated November 2004, executive summary.
- 6 According to Marlene Baierl, legal advise to the MESP, on December 19, 2002.
- 7 Legal drafting stages as highlighted in statements of the head of the Legal Office and the head of Environmental Policies Division in MESP.
- 8 According to information from MESP. None of these legal instruments have been made available.
- 9 Kosovo Environmental Protection Agency
- 10 The law leaves that open.
- 11 See State of the Environment Report, chapters 9 and 12
- 12 Information provided by Mr. Zeqir from the REC field office.
- 13 Environmental Strategy and Sustainable Development for Kosovo project. Draft version March 2004. Available at <http://www.esiweb.org/bridges/kosovo/1/4.pdf>. However, contrary to the announcement, the final version of the strategy is not available on the webpage of the MESP.

Annexes

Annex I

Matrix of Country-Based Legal Drafting Projects

The data shown in this matrix is subject to regular update and amendment, and therefore the table should be considered a work in progress.

Readers' comments, corrections, and suggestions for its improvement are greatly appreciated. Please send comments to ELP@rec.org.

An updated version of the matrix is available on the project website [<www.rec.org/REC/Databases/REReP/Default.html>](http://www.rec.org/REC/Databases/REReP/Default.html).

COUNTRY/ ENTITY	PROJECT TITLE	SCOPE/ PROJECT DESCRIPTION	LINKS TO PROJECTS/ OUTPUTS	STATUS	DIRECTIVES (SECTOR)	
Albania	Environmental Legislation and Planning	To prepare laws and by-laws on EIA, SEA and access to information, as well as review the draft laws on air, waste and biodiversity and complete them with the necessary by-laws and regulations		Ongoing	National strategy for Environmental Protection, including Plan for Approximation of Legislation	
Albania	Waste Management in Albania with Korca Region as Pilot Project	To start a project on waste management which will have a legal component, but not specifically on EU approximation		Contracting process	Waste	
Albania	Institutional Strengthening of the Ministry of Environment (first phase)	To provide technical assistance to raise the institutional capacity of the Albanian Ministry of Environment and thereby enhance the quality of environmental management in Albania		Phase one completed		
Albania	Institutional Strengthening of the Ministry of Environment (second phase)	To provide technical assistance to raise the institutional capacity of the Albanian Ministry of Environment and thereby enhance the quality of environmental management in Albania		Phase two completed		
Albania	Technical Assistance and Training to the Department of Integration and Department of Approximation of Legislation	To provide technical assistance, monitor the Strategy of European Integration and negotiate SAA, as well as harmonise legislation with the <i>acquis communautaire</i>		Ongoing	National Plan for Legal Approximation, Action Plan for European Partnership	
Albania	Lake Ohrid Conservation Project	The conservation of natural value and the biodiversity of the Ohrid Lake and collaboration between Albania and the federal Yugoslav Republic of Macedonia for effective joint management of the watershed. The fulfillment of the project goals is done on the base of the four components: institutional strengthening; lake monitoring; management of the watershed; public awareness and participation		Finished	Nature conservation, regional co-operation and cross border projects	
Albania	Institutional Strengthening and Project Preparation	To support the Government of Albania and its National Environmental Action Plan with a special focus on the development and the implementation of comprehensive environmental policies which would facilitate the transition to sustainable development		Finished in June 2001	Institutional strengthening and policy development	

LINK TO DIRECTIVES	DONOR/ AMOUNT/ DURATION	LINKS TO DONORS	IMPLEMENTING INSTITUTION	LINKS TO IMPLEMENTING INSTITUTIONS	CONTACT PERSON
http://europa.eu.int/eur-lex/en/lif/ind/en_analytical_index_15.html	EC CARDS 2002/ EUR 2,500,000/ 36 months	http://europa.eu.int/comm/europeaid/projects/cards/index_en.htm	EC	http://europa.eu.int/comm/print_index_en.htm	Narin Panariti, E-mail: panariti@icc-al.org
http://europa.eu.int/eur-lex/en/lif/reg/en_register_15103030.html	SIDA/ SEK 15,000,000	Sida, INEC (46-8) 698-5000, john-olof.vinterhav@sida.se, name: John-Olof Vinterhav, Sida, S-E 105 25 Stockholm, Sweden, Sveavägen 20, Stockholm	MoE; Korca district; SIDA	Carl Bro	Mirela Kamberi, E-mail: mkamberi@icc-al.org
	DFID/ GBP 420,000/ 24 months	www.dfid.gov.uk	Montgomery Watson	www.mwhglobal.com	Pellumb Abeshi, E-mail: pabeshi@abissnet.com.al
	DFID/ GBP 300,000/ 24 months	www.dfid.gov.uk	Posford Haskoning MoE	http://www.royalhaskoning.com	Pellumb Abeshi E-mail: pabeshi@abissnet.com.al
	Phare/ EUR 1,575,000/ 24 months	http://europa.eu.int/comm/enlargement/pas/phare/	Ministry of European Integration	www.mie.gov.al	Ditmir Bushati, E-mail: ditmir.bushati@mie.gov.al, Tel: (355-4) 264-833
	GEF/ USD 1,840,000/ Albania/ USD 142,000/ 1998-2005		MoE		Daniela Godo, E-mail: daniela74al@yahoo.com
	Phare/ ECU 300,000/ COP97		MoE	www.moe.gov.al	

COUNTRY/ ENTITY	PROJECT TITLE	SCOPE/ PROJECT DESCRIPTION	LINKS TO PROJECTS/ OUTPUTS	STATUS	DIRECTIVES (SECTOR)
Albania	Conservation of Wetlands and Coastal Ecosystems in the Mediterranean Region	To achieve sustainable management and the preservation of biological diversity in the coastal zone of six Mediterranean countries through the compilation of a suitable legal framework, institutions and capacities building, exchange of experience, the undertaking of concrete actions, etc.		Ongoing	Natural conservation, regional co-operation and cross-border projects
Albania	Updating of National Environmental Action Plan: Immediate Measures	To update the identification of the key environmental issues; set priorities; and contribute to the development of a comprehensive national environmental policy, and to define concrete proposals relevant to the immediate measures		Finished	Institutional strengthening and policy development
Albania	Enforcement of the Environment Ministry	To reform the Environment Ministry according to current standards. This project was carried out in close cooperation with the staff of the Environment Ministry. The results of the project were the defining of a new functioning scheme of the ministry, and the defining of the positions, responsibilities, job descriptions, etc. of the staff, directories of the ministry and of the Environment Inspectorate		Finished	Institutional strengthening
Albania	Ozone Project	The main goal of the project is the strengthening of the legal and institutional frame to realise with the financial support of the UNEP and UNIDO the "phase out" of substances that harm the ozone layer via a system of quantities and licenses		Ongoing	Institutional strengthening and policy development
Albania	Strengthening of the Relations of the Environment Ministry with the European Environment Agency. First phase: Regional project that includes Albania and Yugoslavia	To strengthen Albanian relations with EEA to enable the integration of Albania into the work programme of the EEA and the membership of Albania in the EEA		Finished	Integration process
Albania	Strengthening of Relations of the Environment Ministry with the European Environment Agency. Second phase: Regional project	To strengthen Albanian relations with EEA to enable the integration of Albania into the work programme of the EEA and the membership of Albania in the EEA		Ongoing	Integration process

LINK TO DIRECTIVES	DONOR/ AMOUNT/ DURATION	LINKS TO DONORS	IMPLEMENTING INSTITUTION	LINKS TO IMPLEMENTING INSTITUTIONS	CONTACT PERSON
	GEF/PNUD MEDWET 3/ USD 1,751,000 by GEF, and USD 150,000 by Albania/November 1999 (5 years)	N/A	MoE	www.moe.gov.al	Z. Zamir Dedej, E-mail: zamir@cep.tirana.al
	METAP/WB/ USD 200,000/ September 2000 to June 2001, (8 months)		MoE	www.moe.gov.al	
	DFID/ GBP 400,000/ 2001-2002		MoE	www.moe.gov.al	Daniela Godo, E-mail: daniela74al@yahoo.com
	UNEP/UNIDO/ USD 672,125/ 2003-2009	www.unep.org www.unido.org	MoE	www.moe.gov.al	Mirela Kamberi, E-mail: mkamberi@icc-al.org
	EU (CARDS 2001)/ EUR 500,000/ 2003-2004		EEA, MoE	www.moe.gov.al ; www.eea.eu.int	Panariti, E-mail: Panariti@icc-al.org
	EU (CARDS 2001)/ 2005-2006		EEA, MoE	www.moe.gov.al ; www.eea.eu.int	Panariti, E-mail: Panariti@icc-al.org

COUNTRY/ ENTITY	PROJECT TITLE	SCOPE/ PROJECT DESCRIPTION	LINKS TO PROJECTS/ OUTPUTS	STATUS	DIRECTIVES (SECTOR)
Albania	Institutional Strengthening and Environment Improvement	The Environment Ministry is cooperating with the World Bank on the preparation of a project proposal for the evaluation of the environmental, social, economic, and health risks of the hot spot of Porto-Romano in Durrës and to give modest technical assistance for the institutional strengthening of the Environment Ministry in the field of dangerous waste management		Ongoing	Institution strengthening, reducing environmental health threats
Albania	The Elimination of the Arsenic Stock in Fier	The secure disposal of the arsenic stock in the nitrate fertilisers plant in Fier		Finished	Reducing environmental health threats
Albania	Environment Rehabilitation in the Hot Spot of Vlorë, Albania	To identify priority investments and prepare relevant feasibility studies for both environmental remediation and solid waste components		Finished	Reducing environmental health threats
Albania	Integrated Management of the Ecosystems of the Prespa Lake Trans-boundary Region	To promote integrated management of the ecosystem of the trans-boundary region of Prespa National Park through the participation of all parties and through the increase of cooperation between the three participating countries in this project (Albania, former Yugoslav Republic of Macedonia, Greece)	www.undp.org.al/?projects,46	Finished	Regional co-operation, cross-border projects
Albania	Preparation of the POPs (Persistent Organic Pollutants) National Implementation Plan under the Stockholm Convention	To strengthen capacities in Albania to fulfill its obligations under the Stockholm Convention including the preparation of the POPs National Implementation Plan	www.undp.org.al/?projects,79	Ongoing	Institutional strengthening and policy development
Albania	Development of the Bio-security National Framework	To prepare a National Bio-safety Framework according to the respective conditions of the Cartagena Protocol in Bio-safety		Ongoing	Institutional strengthening and policy development
Albania	Institutional Strengthening of the Environment Ministry According to the New Structure	As a follow-up of a Department for International Development project, it seeks the institutional strengthening of the Environment Ministry through the implementation of a new structure and through the strengthening of the National Environmental Inspectorate		Finished	Institutional Strengthening

LINK TO DIRECTIVES	DONOR/ AMOUNT/ DURATION	LINKS TO DONORS	IMPLEMENTING INSTITUTION	LINKS TO IMPLEMENTING INSTITUTIONS	CONTACT PERSON
	World Bank/ USD 250,020/ 2003-2005	www.worldbank.org	MoE	www.moe.gov.al	Daniela Godo, E-mail: daniela74al@yahoo.com
	EUR 1,000,000/ March 2004-2005		MTAT, MoE		Mirela Kamberi, E-mail: mkamberi@icc-al.org
	(UNEP/MAP)/ USD 300,000/ October 2003- December 2004		MoE		Daniela Godo, E-mail: daniela74al@yahoo.com
	UNDP/GEF/ USD 928,000/ one year	www.undp.org	MoE		Zamir Dedej, E-mail: zamir@cep.tirana.al
	UNDP/GEF/ USD 343,600/ Albania (in-kind)/ USD 34,800/ January 2005- December 2006	www.undp.org	MoE	www.moe.gov.al	Mirela Kanmberi, E-mail: mkamberi@icc-al.org
	UNEP/GEF/ USD 123,500/ Albania (in-kind)/ USD 62,100/ 18 months (to the end of 2005)		MoE	www.moe.gov.al	Mirela Kamberi, E-mail: mkamberi@icc-al.org
	U.K Government, Department of International Development; Royal Haskoning/ GBP 300,000/ June 2003-June 2005	www.dfid.gov.uk	MoE	www.moe.gov.al	Pellumb Abeshi, E-mail: p_abeshi@abissnet.com.al

COUNTRY/ ENTITY	PROJECT TITLE	SCOPE/ PROJECT DESCRIPTION	LINKS TO PROJECTS/ OUTPUTS	STATUS	DIRECTIVES (SECTOR)	
Albania	Establishment of an Effective Institute of Environment	To rehabilitate and upgrade the Institute of Environment according to international standards of environmental monitoring capability and support for the Environment Ministry for projects and environmental monitoring		Ongoing	Institutional strengthening	
Albania	Design of a Landfill for Hazardous	To complete a design and all related documents for construction of a secure landfill for hazardous waste		Ongoing	Environmental prevention control	
Albania	Establishment of a National Center and Network for the Integrated Monitoring of the Environment under the Environment Ministry	To establish a modern and renovated network for environmental monitoring to enable Albania to enter the EEA monitoring network			Environmental monitoring	
Albania	Preparation of the Project "Butrint National Park Biodiversity and Global Heritage Conservation"	An agreement was signed between the Albanian government and World Bank for the grant for this project. The grant was made to finance the preparation of the project, which will be managed by the Environment Ministry in cooperation with Ministry of Culture, Youth and Sports		Finished	Nature protection	
Albania	Assessment of Capacity Building Needs to Address the Priorities of the Biodiversity Strategy and Action Plan	Analysing functional capabilities and determining mechanisms needed to protect national biodiversity in accordance with the BSAP recommendations, and GEF and CoP/CBD guidelines	www.gefonline.org/project/Details.cfm?projID=2559	(Not started yet)	Institutional strengthening and policy development	
Albania	Integrated Ecosystem Management of Lake Shkoder	To control pollution and improve biodiversity conservation of Lake Shkoder (regional project between Albania and Republic of Montenegro)		Ongoing	Regional co-operation, cross-border projects	
Albania	Legislation and Environmental Planning; Preparation, Contracting and Implementation of a Project for the Integration into the EU Legislation, Mentality and Practice	To prepare a set of environment legal acts according to the EU environment legislation and practices		Ongoing	National Strategy for Environmental Protection, including Plan for Approximation of Legislation	

LINK TO DIRECTIVES	DONOR/ AMOUNT/ DURATION	LINKS TO DONORS	IMPLEMENTING INSTITUTION	LINKS TO IMPLEMENTING INSTITUTIONS	CONTACT PERSON
	Netherlands Ministry for Development Co-operation through the Netherlands Embassy in Albania/ EUR 1,090,000/ October 2003-December 2006	www.minbuza.nl	MoE		Pellumb Abeshi, E-mail: p_abeshi@abissnet.com.al
	CARDS 2002/ EUR 600,000/ 2004-2007		EU delegation in Tirana, MoE		Mirela Kmaberi, E-mail: mkamberi@icc-al.org
	CARDS 2004/ EUR 2,500,000		MoE	www.moe.gov.al	Narin Panariti, E-mail: Panariti@icc-al.org
	World Bank/ USD 25,000/ to end of 2004	www.worldbank.org	MoE	www.moe.gov.al	Z. Zamir Dedei, E-mail: zamir@cep.tirana.al
	GEF/ USD 324,000/ 2005-2007	www.gefonline.org	MoE	www.moe.gov.al	Z. Zamir Dedei, E-mail: zamir@cep.tirana.al
	World Bank/ USD 175,000/ 2005-2006		MoE	www.moe.gov.al	Z. Zamir Dedei, E-mail: zamir@cep.tirana.al
http://europa.eu.int/eur-lex/en/lif/ind/en_analytical_index_15.html	CARDS 2002/ EUR 2,500,000/ 2004-2007	http://europa.eu.int/comm/europeaid/projects/cards/index_en.htm	EC, MoE	http://europa.eu.int/comm/print_index_en.htm	Narin Panariti, E-mail: panariti@icc-al.org

COUNTRY/ ENTITY	PROJECT TITLE	SCOPE/ PROJECT DESCRIPTION	LINKS TO PROJECTS/ OUTPUTS	STATUS	DIRECTIVES (SECTOR)
Albania	National Capacity Needs Self-Assessment for Global Environmental Management (NCSA)	To assess capacity needs and priorities with respect to the global environment and within the context of sustainable development so that it can meet the requirements of the global environmental conventions		Ongoing	Institutional strengthening, capacity building
Albania	Institutional Strengthening of the Ministry of Environment (first phase)	To provide technical assistance to raise the institutional capacity of the Albanian Ministry of Environment and thereby enhance the quality of environmental management in Albania		Phase one completed	Institutional strengthening, capacity building
Albania	Institutional Strengthening of the Ministry of Environment (second phase)	To provide technical assistance to raise the institutional capacity of the Albanian Ministry of Environment and thereby enhance the quality of environmental management in Albania		Phase two ongoing	Institutional strengthening, capacity building
Albania	Technical Assistance and Training to the Department of Integration and Department of Approximation of Legislation	To provide technical assistance, monitor the Strategy of European Integration and negotiate SAA, as well as harmonise legislation with the <i>acquis communautaire</i>		Ongoing	National Plan for Legal Approximation, Action Plan for European Partnership
Bosnia and Herzegovina	Functional Review of Environmental Sector	To carry out a functional review of the management of the environment sector in BiH at state, entity, cantonal and municipal levels	www.delbih.cec.eu.int/en/worddocuments/word307.htm	Finished	
Bosnia and Herzegovina	Technical Assistance to Ensure Compliance with EIA Directives			Under preparation	EIA Directives
Bosnia and Herzegovina	Support to Environmental Field Inspection	To support capacity building and establish criteria and methodology for enforcement, control and implementation of environmental laws in practice		Under preparation	
Bosnia and Herzegovina	River Basin Management Programme	To facilitate reforms in the water sector		Ongoing	
Bosnia and Herzegovina	Water Quality Management at RB Level	To ensure transparent, cost-efficient and sustainable water resource management in BiH in accordance with the Water Framework Directive		Under preparation	Water

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	GEF/ USD 200,000 Albania/ USD 15,000 (in-cash) USD 15,000 (in-kind)	www.undp.org gef/05/	MoE	www.moe.gov.al	Klodi Marika
		www.dfid.gov.uk	Montgomery Watson com	www.mwhglobal.com	Pellumb Abeshi, E-mail: pabeshi@ abissnet.com.al
		www.dfid.gov.uk	Posford Haskoning MoE	www.royalhaskoning.com	Pellumb Abeshi, E-mail: pabeshi@ abissnet.com.al
		http: //europa.eu.int/ comm/enlargement/ pas/phare/	Ministry of European Integration	www.mie.gov.al	Ditmir Bushati, Tel: (355-4) 264-833, E-mail: ditmir.bushati@ mie.gov.al
	CARDS/ EUR 491,000		Agriconsult Spa	www.agriconsulting.it	Branko Bosnjakovic, Team leader Senoina 16/II, 71 000 Sarajevo Tel: (387) 222-941/951 Fax: (387) 222-941 E-mail: envipar@bih.net.ba
	CARDS/ EUR 247,000				
	CARDS/ EUR 1,000,000				
	CARDS/ EUR 1,400,000/ 24 months				
	CARDS/ EUR 1,000,000				

COUNTRY/ ENTITY	PROJECT TITLE	SCOPE/ PROJECT DESCRIPTION	LINKS TO PROJECTS/ OUTPUTS	STATUS	DIRECTIVES (SECTOR)
Bosnia and Herzegovina	EC Environment Programme for Bosnia and Herzegovina	To assist the government in establishing appropriate environmental legislation in line with EU standards on biodiversity and to define a cohesive national environmental policy			6th Action Plan, five framework laws (water, air, waste, biodiversity, ecofund)
Bosnia and Herzegovina	Control of Diffuse Sources of Pollution in Bosnia and Herzegovina	To raise awareness of diffuse sources of pollution and to support the establishment of the structure for efficient control of such pollution, primarily of nutrients emissions		Ongoing	
Bosnia and Herzegovina	Support for Improved Waste Management	To draft key secondary legislation ready for submission to the governments of the two entities	www.delbih.cec.eu.int/en/worddocuments/word301.htm		Landfill waste framework packaging
Bosnia and Herzegovina	Development of a National Environmental Monitoring System	To develop an affordable and feasible scheme for the implementation of EEA-harmonised environmental monitoring and reporting, taking into consideration the monitoring of polluters for the specific needs of inspectors	www.delbih.cec.eu.int/en/worddocuments/word302.htm		(EEA regulation) access to environmental information
Bosnia and Herzegovina	Support for Capacity Building for Environmental Management: Support to the Development of a Comprehensive Environmental Regulatory Framework	To increase the capacity of environmental professionals (particularly in ministries) to identify strategic gaps in the regulatory framework, develop environmental policies and address them in a systematic and exhaustive manner			IPPC, EIA Habitats
Bosnia and Herzegovina	Support for the Development of Environmental Fund	To assist entities in establishing funds and beginning operational work, taking into account experiences of other countries of the region			
Bosnia and Herzegovina	Support to Local Community in Management over Protected Areas	To assist the establishment of adequate structures at the local level, including public involvement in management over the Bardaca wetland, because protected areas in BiH do not follow international standards		Ongoing	

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http://europa.eu.int/comm/environment/newprg/	Phare/ EUR 1,000,000	http://europa.eu.int/comm/enlargement/pas/phare/			
	Life Third Countries/ EUR 750,000/ 36 months	http://europa.eu.int/comm/environment/life/life/third_countries.htm	Hydro-engineering Institute Sarajevo	www.heis.com.ba/home.php?kategorija=1&lang=	
http://europa.eu.int/eur-lex/en/lif/reg/en_register_15103030.html	CARDS/ EUR 1,800,000/ 24 months	http://europa.eu.int/comm/europeaid/projects/cards/index_en.htm			Hartwig Behnfeld Građevinski Fakultet Patriotske Lige 30 71 000 Sarajevo Tel: (33) 222-316 Fax: (33) 222-317 E-mail: hartwig.behnfeld@gf.unsa.ba
http://themes.eea.eu.int/Actions_for_improvement/information	CARDS/ EUR 800,000/ 24 months	http://europa.eu.int/comm/europeaid/projects/cards/index_en.htm	N/A	N/A	Michel Houssiau, Rasim Tulumovic Trampina 6/III, ap.7 71 000 Sarajevo Tel./Fax: (33) 259-920, 921 E-mail: ransmo@europronet.ba
http://europa.eu.int/comm/environment/ippc/ ; www.eiainternational.org/index_shocked.shtml	CARDS/ EUR 1,700,000/ 24 months	http://europa.eu.int/comm/europeaid/projects/cards/index_en.htm			
	CARDS/ EUR 300,000	http://europa.eu.int/comm/europeaid/projects/cards/index_en.htm			
	LIFE Third Countries/ EUR 610,000/ 36 months	http://europa.eu.int/comm/environment/life/life/third_countries.htm			

COUNTRY/ ENTITY	PROJECT TITLE	SCOPE/ PROJECT DESCRIPTION	LINKS TO PROJECTS/ OUTPUTS	STATUS	DIRECTIVES (SECTOR)
Bosnia and Herzegovina	Water Institutional Strengthening in Bosnia and Herzegovina	To support the institutional reform in the BiH water sector through set-up of two model river basin bodies, legal drafting and legal advice, budgeting and financing		Completed	
Bosnia and Herzegovina	Institutional Strengthening of Water Sector	To further strengthen the institutions involved in water management and support the development and enforcement of environmental regulations		Completed	
Bosnia and Herzegovina	Solid Waste Management Project	To improve solid waste services in a cost-effective manner, increase administrative and technical capacity, correct environmental problems and reduce health hazards		Ongoing 2002-2008	
Bosnia and Herzegovina	Bosnia Forestry Project	To resume sustainable management and protection of forest resources in BiH		Completed	
Bosnia and Herzegovina	Support for Capacity Building for Environmental Management in Bosnia and Herzegovina	To enhance in a sustainable manner the human resource capacity of the authorities in charge of the environment and to make a significant contribution to the improved management of environment in BiH		Ongoing	
Bosnia and Herzegovina	Institutional Strengthening of Ministry of Spatial Planning, Civil Engineering and Ecology of Republic of Srpska and Ministry of Spatial Planning and Environment of Federation BiH	To support the work of the Environmental Steering Committee, draft on Environmental Law and assess relevant entities in order to propose an efficient way for establishing an environmental agency and other governmental and entity institutions		Completed	
Bosnia and Herzegovina	Integrated Management of the Una River Basin	To establish an effective and efficient structure for integrated management of the water resources of the Una River Basin		Ongoing	Water
Bosnia and Herzegovina	Support to the Common Institutions of the State of Bosnia Herzegovina	To provide support to the common institutions of the country		Completed	

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	EU PHARE/ EUR 1,000,000/ 2001-2002	www.altairasesores.es/english/europa.php			
	PHARE/ EUR 300,000 1997	www.seerecon.org/bosnia/ec/sectors/water-contracts.htm			
	World Bank/ USD 18,000,000	http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/BOSNIAHERZEXTN/0,,menuPK:362032~pagePK:141159~piPK:141110~theSitePK:362026,00.html	FBiH Ministry of Physical Planning and Environment		
	World Bank/ USD 7,000,000	http://web.worldbank.org/external/default/main?menuPK=362058&pagePK=141155&piPK=141124&theSitePK=362026	FBiH Ministry of Agriculture, Water Resources and Forestry		
	CARDS/ EUR 258,410		Project Management (PM) and REC Country Office Bosnia and Herzegovina	www.rec.org	
	Italian Ministry for Environment and Territory/ EUR 300,000	www.minambiente.it/Sito/home.asp	REC Country Office Bosnia and Herzegovina	www.rec.org	
http://europa.eu.int/eur-lex/en/lif/reg/en_register_15102020.html	Swiss Cooperation Development/ 24 months	www.sdc-gov.ch			
	OBNOVA/ EUR 1,800,000	www.mei.hr/default.asp?jezik=&ru=234&sid=			

COUNTRY/ ENTITY	PROJECT TITLE	SCOPE/ PROJECT DESCRIPTION	LINKS TO PROJECTS/ OUTPUTS	STATUS	DIRECTIVES (SECTOR)
Bosnia and Herzegovina	Supply for Water Quality Management Bosnia and Herzegovina		www.dgmarket.com/eproc/eu-notice.do~784448-		
Croatia	Project Preparation Facility	To carry out a legislation gap analysis for waste management and regulatory and cost impact assessment for implementing requirements of the landfills and waste incineration directives (first phase of the National Waste Management Strategy)		Completed in April 2003	Waste
Croatia	Strategy for EU Environmental Law Approximation	To develop an EU environmental law approximation strategy and action plan for Croatia; to finalise the legislation gap analysis between national legislation and the EU environmental acquis and write an LGA report identifying required regulatory actions and priority areas; to complete a horizontal impact assessment of the implementation of the EU environmental acquis and write an HIA report comprising an estimate of the implementation costs, required institutional actions and priority areas		Ongoing	LGA report, Waste Management, Water Protection, Air Protection, Nature Conservation, Nuclear Safety and Radiation Protection, Noise, GMOs and chemicals, Risk Management and Horizontal Legislation
Croatia	National Waste Management Strategy Framework; Focus on Municipal Waste Management	To perform a gap analysis, and develop a strategy and action plan for environmentally sound management and disposal of municipal solid waste		Completed	Waste
Croatia	Municipal Environmental Management and Infrastructure	To assist small municipalities in areas of state concern with reconstruction and infrastructure investment in municipal environmental services, through partnership development, staff training in municipalities and in the local banking sector to use and manage the available resources, and to support the development of project documents and small-scale pilot investments and works		Ongoing	Waste
Croatia	Pilot Waste Management Strategy for Dalmatia	To develop a pilot waste management strategy for Dalmatian counties with a cost assessment and administrative and technical guidelines for the development of regional waste management		Ongoing	Waste

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	Delegation of the European Commission to Bosnia and Herzegovina	www.delbih.cec.eu.int/			
http://europa.eu.int/eur-lex/en/lif/reg/en_register_15103030.html		http://europa.eu.int/comm/europeaid/projects/cards/index_en.htm	Ministry of Environmental Protection, Physical Planning and Construction (MEPPPC)	www.mzopu.hr	
http://europa.eu.int/eur-lex/en/lif/reg/en_register_15102030.html	CARDS 2002/ EUR 1,200,000	http://europa.eu.int/comm/europeaid/projects/cards/index_en.htm	MEPPPC	http://europa.eu.int/comm/print_index_en.htm	
http://europa.eu.int/eur-lex/en/lif/reg/en_register_15103030.html	CARL BRO INT/ EUR 199,999	www.carlbro.com	MEPPPC	www.mzopu.hr	
http://europa.eu.int/eur-lex/en/lif/reg/en_register_15103030.html	CARDS 2001/ 1,800,000/ 20 months	www.undp.org	MEPPPC	www.mzopu.hr	
http://europa.eu.int/eur-lex/en/lif/reg/en_register_15103030.html	CARDS 2002/ EUR 800,000/ 18 months	http://europa.eu.int/comm/europeaid/projects/cards/index_en.htm	Counties of Zadar and Sibenik-Knin	www.mzopu.hr	

COUNTRY/ ENTITY	PROJECT TITLE	SCOPE/ PROJECT DESCRIPTION	LINKS TO PROJECTS/ OUTPUTS	STATUS	DIRECTIVES (SECTOR)
Croatia	Water Information System: Standardisation and Monitoring	To modernise and improve the present water monitoring system by standardising, harmonising and implementing rules and procedures for data monitoring, analytical processing and evaluation, as well as purchasing specialised monitoring equipment		Ongoing	Water
Croatia	Capacity Strengthening Measures for the Environment Agency	To improve the ability of the Environment Agency and its Environmental Information System to provide timely accurate and reliable environmental data, to support the establishment of a topic centre, and to upgrade substantially their ability to monitor the environmental situation in the country		Ongoing	EEA Regulations
Croatia	Approximation of Croatian Water Management Legislation with EU Acquis	To support efficient implementation of EU water management standards as a part of overall efforts to protect the environment in Croatia		Ongoing	Water
Croatia	Environmental Assessment of Development Strategies	To establish a framework for environmentally sustainable development in Croatia by developing a stable capacity to carry out strategic environmental assessment		Terms of reference are being developed	SEA
Croatia	Implementation of Environmental Impact Assessment Guidelines and Training	To provide assistance to enhance, facilitate and strengthen the use of EIA according to EU standards and practices through capacity building in EU legal approximation, developing and implementing guidance tools for environmental impact assessment, capacity building in EIA review and increasing transparency and public participation		Terms of reference are being completed	EIA
Croatia	Promoting Access to Information and Public Participation in Environmental Matters in Line and with Aarhus Convention	To contribute to transparency of national and local administration by promoting and enabling access to environmental information and public participation in decision making		Finished 2003	Access to information
Croatia	Assessment of the Renewable Energy Potential of Croatia	To develop the basis for a sustainable market for wind and solar energy projects and services by reviewing existing wind and solar resources, establishing equipment needs, developing an investment plan, a wind and solar measurement programme, and training data verification and resource modelling in the pilot region		Ongoing	Renewable energy

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http://europa.eu.int/eur-lex/en/lif/reg/en_register_15102020.html	EUR 800,000/ 12 months	http://europa.eu.int/comm/europeaid/projects/cards/index_en.htm	Ministry of Agriculture, Forestry and Water Management (MAFWM)	www.mps.hr	
www.eea.eu.int/main_html	CARDS 2002/ TWINNING/ EUR 500,000/ 2002/ 18 months	http://europa.eu.int/comm/enlargement/pas/twinning/ ; http://europa.eu.int/comm/dgs/education_culture/towntwin/index_en.html	Croatian Environmental Agency	www.azo.hr	
http://europa.eu.int/eur-lex/en/lif/reg/en_register_15102020.html	CARDS 2001/ EUR 1,000,000	http://europa.eu.int/comm/europeaid/projects/cards/index_en.htm	MAFWM	www.mps.hr	
www.sea-info.net/	CARDS 2003/ EUR 800,000	http://europa.eu.int/comm/europeaid/projects/cards/index_en.htm	MEPPPC	www.mzopu.hr	
www.eia-international.org/	CARDS 2003/ EUR 700,000	http://europa.eu.int/comm/europeaid/projects/cards/index_en.htm	MEPPPC	www.mzopu.hr	
www.unece.org/env/pp/	CARDS 2000/ EUR 300,000	http://europa.eu.int/comm/europeaid/projects/cards/index_en.htm	MEPPPC/COWI	www.mzopu.hr www.cowi.dk	
http://europa.eu.int	GEF	http://europa.eu.int	Ministry of Economy, Labour and Entrepreneurship (MELE)	www.mingo.hr	

COUNTRY/ ENTITY	PROJECT TITLE	SCOPE/ PROJECT DESCRIPTION	LINKS TO PROJECTS/ OUTPUTS	STATUS	DIRECTIVES (SECTOR)
Croatia	Sustainable Usage of the Lonjsko Polje Nature Park	To maintain and protect the biological and landscape diversity of the Lonjsko Polje Nature Park through raising awareness of ecological and cultural values, improving the benefits to the local people and ensuring efficient effective water control		2001- In progress	Biological and Landscape Diversity Natura 2000
Croatia	Sustainable Development in Croatian Capacity in CHP	To establish local capacity for development and implementation of guidelines for the local co-generation sector		2000 Completed	Combined heat and power production
Croatia	Building-up the National Ecological Network as a Part of the Pan-European Ecological Network and the Natura 2000 Network	To strengthen the capacity of the national natural protection authority, identify Natura 2000 areas, build up the National Ecological Network, and to develop the network of people and organisations involved in data gathering		2003- In progress	Natura 2000
Croatia	Corine Land Cover Database for Croatia	To complete a systematic land cover inventory of Croatia, to assess and explain land cover changes, and to integrate Croatian land-cover database with European land cover database		2002- In progress	
Former Yugoslav Republic of Macedonia	Assistance to the Implementation of the New EIA Legislation in Macedonia	To support the efforts for the implementation of the EIA provisions in the draft new Law on Environment and public participation in the drafting process of the two secondary laws: decree for determining the projects for which the EIA should be carried out (Annex I and Annex II list of projects) and the rulebook for determining the additional criteria, the manner and the procedure for inclusion in and exclusion from the list of EIA experts		November 2004-April 2005	EIA Directive
Former Yugoslav Republic of Macedonia	National Strategy for Environmental Approximation	To contribute to the development and implementation of the framework for the strengthening of sustainable development in the former Yugoslav Republic of Macedonia; to contribute to the country's progress towards accession by helping the country to identify and meet the complex obligations of EU environmental legislation; to prepare the National Strategy for Environmental Approximation based on 11 Sector Approximation Strategies (Horizontal, Air, Waste, Water, Nature, IPPC, Chemicals and GMOs, Noise, Nuclear Safety, Climate Change and Radiation); and to prepare directive-specific implementation plans for all directives		Finalisation of terms of reference for the project/ Start is expected in October 2005	Eleven sectors covered (horizontal, air, waste, water, climate change, noise, IPPC, nuclear safety, radiation, chemicals and GMOs, nature), all relevant directives

LINK TO DIRECTIVES	DONOR/ AMOUNT/ DURATION	LINKS TO DONORS	IMPLEMENTING INSTITUTION	LINKS TO IMPLEMENTING INSTITUTIONS	CONTACT PERSON
http://europa.eu.int Natura 2000	LIFE TCY/00/CROO76/ EUR 332,213 (67% of eligible costs)	http://portal.unesco.org/en/ev.php-URL_ID=21608&URL_DO=DO_TOPIC&URL_SECTION=201.html	Ministry of Culture (MC)	www.min-kulture.hr	
http://europa.eu.int	LIFE TCY/CRO/084/ EUR 337,400 (70% of eligible costs)	http://europa.eu.int	Centre for Technology Transfer	www.ics.trieste.it/NewDetails.aspx?PCODE=0.1&idx=105&new_id=67	
Natura 2000 environnement. gouv.fr	LIFE 02/TCY/CRO/012/ EUR 375,095 (70% of eligible costs)	http://europa.eu.int	MC	www.managenergy.net/actors/A2296.htm	
http://europa.eu.int	LIFE 02/TCY/CRO/015/ EUR 499,479 (69% of eligible costs)	http://europa.eu.int	MC	www.managenergy.net/actors/A2296.htm	
	Japan Special Fund/ EUR 47,500/ 5 months	www.rec.org/REC/Programs/JSF/	REC Country Office former Yugoslav Republic of Macedonia	www.rec.org.mk	
	CARDS 2005/1/ EUR 150,000/ 14 months				

COUNTRY/ ENTITY	PROJECT TITLE	SCOPE/ PROJECT DESCRIPTION	LINKS TO PROJECTS/ OUTPUTS	STATUS	DIRECTIVES (SECTOR)
Serbia and Montenegro	Strengthening the Capacity of Ministry of Environment and Physical Planning, Republic of Montenegro	To adapt and approximate environmental legislation to the acquis communautaire related to horizontal legislation and the sectoral environmental legislation regarding waste/hazardous waste management		Completed	Access to information; water accidents; bathing water; quality of water intended for human consumption; urban waste water treatment; waste; hazardous waste; waste oils; protection of flora, fauna and habitats
Serbia and Montenegro	Development of Environmental Legislation in the Republics of Serbia and Montenegro, YUGOLEX	To assist the republics in the transposition of the EU directives relating to EIA, SEA, IPPC and public access to environmental information	www.yugolex.org.yu	Ongoing	EIA, IPPC, SEA public participation, public access to environmental information
Serbia and Montenegro	Support to Environmental Legislation and Institutional Structuring in Serbia	To assist the development of a new Environmental Framework Law, support the establishment of the Ministry for Natural Resources and Environmental Protection and build institutional capacity		Completed	
Serbia and Montenegro	Law on Forest Reproductive Material and Regulations in Republic of Serbia	To redefine the Law on Seed and Seedlings and implement the EU Council Directive on the Marketing of Forest Reproductive Material		Completed	Forest reproductive material

LINK TO DIRECTIVES	DONOR/ AMOUNT/ DURATION	LINKS TO DONORS	IMPLEMENTING INSTITUTION	LINKS TO IMPLEMENTING INSTITUTIONS	CONTACT PERSON
http://europa.eu.int/eur-lex/en/lif/reg/en_register_15102030.html ; http://europa.eu.int/comm/environment/ippc ; www.eia-international.org/index_shocked.shtml ; www.unece.org/env/pp/	Phare/ EUR 2,137,589/ 14 months	http://europa.eu.int/comm/enlargement/pas/phare/	GOPA	www.contentmanager.net	Zdenka Ivanovic, E-mail: gopa2@cg.yu ; Tel: (381-81) 234-297; Fax: (381-81) 234-298
http://europa.eu.int/eur-lex/en/lif/reg/en_register_15102030.html ; http://europa.eu.int/comm/environment/ippc ; www.eia-international.org/index_shocked.shtml ; www.unece.org/env/pp/	Finland/ EUR 2,000,000/ 2002-2005	www.valtioneuvosto.fi/vn/liston/base.lsp?k=en	Finnconsult Oy Scandiaconsult Natura Ab; REC Country Office Serbia and Montenegro	www.gom.cg.yu/eng/minzastsred/	Slavko Bogdanovic, team leader E-mail: yugolex@eunet.yu
	SDC German, Italian and Norwegian governments, OSCE, SIDA, WV, SC, EBRD/ EUR 710,000	www.ebrd.com	OSCE	www.osce.org	Miroslav Spasojevic, assistant director Department for International Coop- eration and Euro- pean Integration, Republic of Serbia, Directorate for Envi- ronmental Protec- tion, Ministry of Sci- ence and Environ- mental Protection Tel: (381-11) 216-0956 Fax: (381-11) 215-8793 E-mail: miroslav.spasojevic@ekoserb.sr.gov.yu
http://europa.eu.int/eur-lex/en/lif/reg/en_register_15103020.html	OSCE/ EUR 23,100	www.osce.org	Ministry of Agriculture, Forestry and Water Management Forestry Directorate	www.eco-web.com/cgi-local/sfc?a=/index/index.html&b=/register/06475.html	Ljiljana Sovilj E-Mail: Ljsovilj@ptt.yu

COUNTRY/ ENTITY	PROJECT TITLE	SCOPE/ PROJECT DESCRIPTION	LINKS TO PROJECTS/ OUTPUTS	STATUS	DIRECTIVES (SECTOR)
Serbia and Montenegro	3E (Energy, Economy, Environment)	To promote the use of renewable energy sources and regional cooperation through support to development of institutions and legislation in the area of energy, and help in setting up a regional energy market. The programme supports energy saving programmes and the use of renewable energy, especially in small energy power plants. The initiative was launched in accordance with governmental policy		Ongoing	
Serbia and Montenegro	The 2003 Environmental Capacity Building Programme for Serbia	To facilitate effective implementation and enforcement of environmental protection legislation in the Republic of Serbia; to build staff capacity of the ministry for implementing the full range of forthcoming legislation; to support the preparation of a number of sectoral framework laws for future transposition of the acquis; to further support the establishment of the Environmental Protection Agency; to support the preparation of the NEAP; to support the preparation of five local environmental action plans		Ongoing	
Serbia and Montenegro	Environmental Capacity Building Measures Programme in the Republic of Serbia 2002	To assist the Department of Environmental Protection with the establishment of the Environmental Agency for the Republic of Serbia; to build environmental planning capacity in the Municipality of Pancevo by preparing a local environmental action plan; to assist the Department of Environmental Protection with the establishment of a training programme to equip teachers with tools for environmental education		Completed	

LINK TO DIRECTIVES	DONOR/ AMOUNT/ DURATION	LINKS TO DONORS	IMPLEMENTING INSTITUTION	LINKS TO IMPLEMENTING INSTITUTIONS	CONTACT PERSON
	OSCE/ other donors/ 24 months	www.osce.org			
	EAR/ EUR 8,000,000/ 24 months	www.ear.eu.int	DHV	www.ekoserb.sr.gov.yu	Miroslav Spasojevic, assistant director, Department for International Cooperation and European Integration, Republic of Serbia; Directorate for Environmental Protection, Ministry of Science and Environmental Protection Tel: (381-11) 216-0956 Fax: (381-11) 215-8793 E-mail: miroslav.spasojevic@ekoserb.sr.gov.yu
	EU/EAR/ EUR 500,000	www.ear.eu.int	Cowi	www.eco-web.com/register/00234.html	Miroslav Spasojevic, assistant director, Department for International Cooperation and European Integration, Republic of Serbia; Directorate for Environmental Protection; Ministry of Science and Environmental Protection Tel: (381-11) 216-0956 Fax: (381-11) 215-8793 E-mail: miroslav.spasojevic@ekoserb.sr.gov.yu

COUNTRY/ ENTITY	PROJECT TITLE	SCOPE/ PROJECT DESCRIPTION	LINKS TO PROJECTS/ OUTPUTS	STATUS	DIRECTIVES (SECTOR)	
Serbia and Montenegro	Management and Capacity Building of Ministry of Environment, Republic of Serbia	To design a staffing plan and PR strategy for the Directorate of Environment, Republic of Serbia		Ongoing		
Serbia and Montenegro	Development of National Biosafety Framework, Republic of Serbia	The UNEP-GEF global project on the development of national biosafety Frameworks began in June 2001. This project is designed to assist up to 100 countries to develop their national biosafety frameworks so that they can comply with the Cartagena Protocol on Biosafety. The project will also promote regional and sub-regional cooperation on biosafety	www.unep.ch biosafety/ partcountries/ YUcountrypage. htm	Ongoing		

LINK TO DIRECTIVES	DONOR/ AMOUNT/ DURATION	LINKS TO DONORS	IMPLEMENTING INSTITUTION	LINKS TO IMPLEMENTING INSTITUTIONS	CONTACT PERSON
	Swedish International Development Agency	www.sida.se	NIRAS	www.niras.dk	Miroslav Spasojevic, assistant director Department for International Cooperation and European Integration, Republic of Serbia; Directorate for Environmental Protection, Ministry of Science and Environmental Protection Tel: (381-11) 216-0956 Fax: (381-11) 215-8793 E-mail: miroslav.spasojevic@ekoserb.sr.gov.yu
	UNEP-GEF Sept.30, 2004-March 29, 2006	www.unep.ch/biosafety	Ministry for Agriculture and Water Management, Republic of Serbia	www.minpolj.sr.gov.yu	Srdjan Stojanovic NEA-National Executing Agency, head of Department Ministry for Agriculture and Water Management, Division for Agro-Resources, Department for Genetic Resources and GMOs Nemanjina 22-26 11000 Belgrade SCG, Tel: (381-11) 609-352 Fax: (381-11) 311-7591 E-mail: agrvet@hotmail.com

COUNTRY/ ENTITY	PROJECT TITLE	SCOPE/ PROJECT DESCRIPTION	LINKS TO PROJECTS/ OUTPUTS	STATUS	DIRECTIVES (SECTOR)
Serbia and Montenegro	Reduction of Enterprise Nutrient Discharges Project (RENDER)	The project seeks to reduce nutrient pollution from hot-spot enterprises on the Danube River and its tributaries through investment in cleaner production and better waste management technologies as well as institutional, monitoring and enforcement development. The project would also serve as a model for replication in other parts of the basin, helping SCG to meet its international commitments under the Danube River Convention. The objective is to reduce the negative public health, economic and amenity impact associated with water and soil pollution from enterprise pollutant discharges. The project would also provide a working model for the implementation of the ongoing regulatory and institutional reforms in the republic, in particular the new Law on System of Environmental Protection, the new Law on Integrated Pollution Prevention and Control and the new Law on Environmental Impact Assessment	www.gefonline.org/project/Details.cfm?projID=2141	Ongoing	Water management
Serbia and Montenegro	Institutional Development and Capacity Building for the National Forest Programme in Serbia	The project, which is jointly supported by the government and the Food and Agriculture Organization of the United Nations, is intended to help the government to establish a modern forestry administration equipped with the necessary institutional tools and staff to promote and ensure sustainable and participatory management of the country's forest resources in a market economy. It will in particular provide the elements required for the development of a country-driven national forest programme consonant with the national development and environmental action plans		Ongoing	Forest management
Serbia and Montenegro	Legal Consultancy for the Drafting of a Regulation on the Conditions and Pro- cedure for Defining the Liability of the State for Past Envi- ronmental Damage Caused by Enterpri- ses under Privatisation	To draft regulation on the conditions and procedures for defining the liability of the state for past environmental damage caused by enterprises under privatisation, Republic of Serbia		Completed	

LINK TO DIRECTIVES	DONOR/ AMOUNT/ DURATION	LINKS TO DONORS	IMPLEMENTING INSTITUTION	LINKS TO IMPLEMENTING INSTITUTIONS	CONTACT PERSON
	WB-GEF Investment Fund for Nutrient Reduction in the Black Sea Danube Basin/ Implementation is planned for January 2005-2010	www.worldbank.org	IBRD-WB		Miroslav Spasojevic, assistant director, Department for International Cooperation and European Integration, Republic of Serbia; Directorate for Environmental Protection, Ministry of Science and Environmental Protection Tel: (381-11) 216-0956 Fax: (381-11) 215-8793 E-mail: miroslav.spassojevic@ekoserb.sr.gov.yu
	Food and Agriculture Organization of the United Nations, Republic of Serbia/ April 2003-2005	www.fao.org	Ministry of Agriculture, Forestry and Water Management, Directorate of Forests, Republic of Serbia	www.minpolj.sr.gov.yu	Predrag Jovic, national project Coordinator, E-mail: pedjaj@yubc.net , Tel: (381-11) 543-868, (381-63) 324-464, Aleksandar Vasiljevic, deputy minister and director, Directorate of Forests
	Privatization Agency of Serbia (World Bank)	www.priv.yu	REC and AQE	www.rec.org	Srdjan Susic, senior project manager (REC CO SCG) E-mail: ssusic@recyu.org

COUNTRY/ ENTITY	PROJECT TITLE	SCOPE/ PROJECT DESCRIPTION	LINKS TO PROJECTS/ OUTPUTS	STATUS	DIRECTIVES (SECTOR)
Serbia and Montenegro	Development of a Framework National Strategy and Action Plan for Response to the Problem of Greenhouse Gases in Serbia and Montenegro	To enhance and encourage processes in Serbia and Montenegro for an effective greenhouse response and in efforts to limit greenhouse gas emissions in view to meeting the country's international commitments		Completed	
Serbia and Montenegro	National Strategy for Sustainable Development	UNDP is seeking to provide support for development in disadvantaged areas, such as southwest Serbia and northwest Montenegro. At the country level UNDP is working to support formulation of biodiversity and climate change strategies in both republics, as well as in the assessment of institutional capacities for the implementation of action plans in these areas	www.undp.org.yu/mdgs/	Ongoing	Support and strengthening of municipal government and local institutions, strengthening of civil society, improving human security and the environment
Serbia and Montenegro	National Environmental Strategy and Action Plan (NESAP)	The NEAP can be considered as a set of tools that enables systematic, effective and integrated environmental policy reform. It is particularly useful for countries which urgently need to improve environmental conditions and undertake profound reforms of environmental policy. In essence the NEAP is a tool for addressing priority problems through application of the most cost-effective solutions and involving stakeholders in the process. In fact, the NEAP process and product are often seen as being equally important. The NEAP is also a cyclical process and usually several NEAP cycles are needed to achieve major progress	www.ekoserb.sr.gov.yu/engl/projekti/neap/neap.php	Ongoing	
Kosovo (territory under interim UN administration)	Institutional Support for Environmental Management to the Ministry of Environment and Spatial Planning	To improve environmental conditions in Kosovo through support for the development and implementation of key environmental legislation and effective water resource management	www.ear.eu.int/kosovo/main/kosovo-a1c2f3d4a5.htm		
Kosovo (territory under interim UN administration)	Regulatory Systems for Hazardous Waste and Construction and Demolition Waste in the Territory of Kosovo			Finished	Waste

**MATRIX OF COUNTRY-BASED LEGAL DRAFTING PROJECTS: SERBIA AND MONTENEGRO •
KOSOVO (TERRITORY UNDER INTERIM UN ADMINISTRATION)**

LINK TO DIRECTIVES	DONOR/ AMOUNT/ DURATION	LINKS TO DONORS	IMPLEMENTING INSTITUTION	LINKS TO IMPLEMENTING INSTITUTIONS	CONTACT PERSON
	Japan Special Fund/ September 2004 - March 2005	www.rec.org/REC/ Programs/JSF/ Default.html	REC CO Serbia and Montenegro	www.rec.org	Srdjan Susic, senior project manager (REC CO SCG), E-mail: ssusic@recyu.org
www.undp.org.yu/ tareas/?area=SD	UNDP/ (MDGs before 2015)	www.undp.org.yu	Ministry for Science and Environmental Protection of the Republic of Serbia, UNDP country office	www.ecoserb.sr. gov.yu	UNDP Country Office, P.O.Box no.3 Internacionalnih brigada 69 11000 Belgrade Serbia and Montenegro Tel: (381-11) 204-0400 Fax: (381-11) 344-4300 E-mail: registry.yu@undp. org
	Environmental Capacity Building Programme 2003, an EU-funded project managed by the European Agency for Reconstruction, from 2003	www.ear.eu.int	Directorate for Environmental Protection, Ministry for Science and Environmental Protection of the Republic of Serbia	www.ecoserb.sr. gov.yu	Dariusz Kobus – international NEAP coordinator, Marina Ilic – local NEAP coordinator, NEAP Secretariat, Environmental Capacity Building Programme 2003, Room 27, Ivana Ribara 91, 11070 Belgrade, Serbia and Montenegro
	European Agency for Reconstruction/ EUR 1,000,000	www.ear.eu.int			
	Germany/ EUR 154,000				

**MATRIX OF COUNTRY-BASED LEGAL DRAFTING PROJECTS:
KOSOVO (TERRITORY UNDER INTERIM UN ADMINISTRATION)**

COUNTRY/ ENTITY	PROJECT TITLE	SCOPE/ PROJECT DESCRIPTION	LINKS TO PROJECTS/ OUTPUTS	STATUS	DIRECTIVES (SECTOR)	
Kosovo (territory under interim UN administration)	Capacity Building for Better Nature Conservation					
Kosovo (territory under interim UN administration)	Development of Kosovo Environmental Action Plan	To develop policy and strategies for implementation by the Ministry of Environment and Spatial Planning				
Kosovo (territory under interim UN administration)	Institutional Support for Environmental Management to the Ministry of Environment and Spatial Planning (second phase)	To further strengthen the institutional capacity of the Ministry of Environment and Spatial Planning (MESP) to develop, monitor and enforce environmental protection and resource management policies encompassing water resources, sanitation, solid waste and pollution, in line with EU standards and environmental acquis				

**MATRIX OF COUNTRY-BASED LEGAL DRAFTING PROJECTS:
KOSOVO (TERRITORY UNDER INTERIM UN ADMINISTRATION)**

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Annex II

Literature, Sources (Material Inventory)

Albania			
TITLE	YEAR	AUTHOR	REMARK
Compendium of Environmental Legislation of Albania	2004	Ministry of Environment	Large but poorly structured compilation of environmental legislation
Updated National Environmental Action Plan (UNEAP)	2001	NEA (predecessor of MoE)	Draft paper
Inception report project: Environmental Legislation and Planning	2005	Jacobs Gibb (consulting company)	CARDS 2002 project
Final Timetable for Inception Report	2005	Jacobs Gibb	CARDS 2002 project
Prioritisation of Legal Areas for Approximation	2005	Jacobs Gibb	CARDS 2002 project non-paper
First Stabilisation and Association Report Albania, SEC (2002) 339	2002	EC Commission	Commission staff working paper
Third Stabilisation and Association Report Albania, SEC (2004) 374 / 2	2004	EC Commission	Commission staff working paper
EU Relations with Albania		EC Commission	http://europa.eu.int/comm/external_relations/see/albania/index.htm
Environmental Enforcement and Compliance in SEE: Albania	2002	Dimovski/Glaser	
Environmental Performance Review of Albania	2002	UNECE	
Answers to questionnaire	2005		Returned by MoE, filled out by Mr. Mejdić and Ms. Panariti
Bosnia and Herzegovina (including FBiH and Republika Srpska)			
TITLE	YEAR	AUTHOR	REMARK
Environmental Performance Review Bosnia and Herzegovina, Series No. 20	2004	UNECE	
Support for Capacity Building for Environmental Management in Bosnia and Herzegovina, Mid-Term Review of the CARDS Environmental Projects	2004	Project Management (consulting company)	CARDS 2002 Project
Third Stabilisation and Association Report Bosnia and Herzegovina, SEC(2004) 375	2004	EC Commission	Commission staff working paper
EU relations with Bosnia and Herzegovina	2005	EC Commission	http://europa.eu.int/comm/external_relations/see/bosnie_herze/index.htm
EU Environmental Projects, Quarterly Newsletter No. 3	2005		Overview on CARDS projects in BiH

TITLE	YEAR	AUTHOR	REMARK
Selected environmental laws from the entities			Several sources
Report from the Commission on the Preparation of BiH to Negotiate an SAA, COM(2003) 692 final	2003	EC Commission	
Bosnia and Herzegovina, Overview of EIA system	2002	REC	
Answers to Questionnaire	2005		Returned by MPPE of FBiH, filled out by the chief of cabinet, Hamid Suljevic

Croatia

TITLE	YEAR	AUTHOR	REMARK
Selected environmental laws			Several sources
Opinion on Croatia's Application for Membership of the European Union COM (2004) 257	2004	EC Commission	
Inception report: Strategy for EU Environmental Law Approximation	2004	PM (consulting company)	CARDS Project
National Environmental Strategy and National Environmental Action Plan	2002	MEPPPC	Source: www.mzopu.hr
Overview of the EIA/SEA System(s), Croatia	2004	Anita Erdelez, Irena Brnada, Gordana Pavokovic	Prepared at advanced international training programme on EIA for SEE, financed by SIDA
Final Report of Task 1: Implementation and Enforcement Capacities in Croatia for the Environmental Acquis	2005	ECOLAS IEEP	
Council Decision on the Principles, Priorities and Conditions Contained in the European Partnership with Croatia, COM(2004)275 final.	2004	European Commission	

Former Yugoslav Republic of Macedonia

TITLE	YEAR	AUTHOR	REMARK
Selected environmental laws	N/A	N/A	Several sources
Answers to the Questionnaire for the Preparation of the European Commission's Opinion on the Application of Macedonia for Membership of the EU	2005	Government (MEPP)	Source: www.sei.gov.mk/questionnaire
Environmental Performance Review, the former Yugoslav Republic of Macedonia, Series No. 17	2002	UNECE	
Programme for Approximation of the National Legislation with the Legislation of the EU for 2004	2004	Government, Sector for European Integration	
Final report of Phare 1999 project: Strengthening the Capacity of the MEPP	2004	GOPA (consulting company)	
Third Stabilisation and Association Report COM (2004)	2004	European Commission	Commission staff working paper 204 final
Answers to questionnaire	2005		Filled out and returned by Ms. Ivanova (MEPP)

Republic of Serbia and Republic of Montenegro

TITLE	YEAR	AUTHOR	REMARK
Selected environmental laws from the Republics			Several sources
Environmental Performance Review of Serbia/Montenegro	2002	UNECE	
First annual report, Development of Environmental Legislation in Serbia and Montenegro (YUGOLEX)	2003	Finnconsult (consulting company)	
Project YUGOLEX Phase II Draft Implementation Plan	2003	Finnconsult	
List of environmental policy objectives for the National Environmental Policy Plan accepted at the NEAP Forum in Vrujci on June 30, 2004	2004		Paper from Environmental Capacity Building Programme
Development of Environmental Legislation in Serbia and Montenegro (YUGOLEX) REC SCG Compendium of Achievements (2001/04)	2004	YUGOLEX	
National Waste Management Strategy	2003	Serbian MESP	
Stabilisation and Association Report Serbia and Montenegro SEC (2004) 376	2004	European Commission	
Council Decision on the Principles, Priorities and Conditions Contained in the European Partnership with Serbia and Montenegro including Kosovo [...] 2004/520/EC	2004	European Commission	
A Study on the Future Legislation on Chemicals in the Republic of Serbia	2003	Michael J. Warning, Gerd Winter	Prepared under the project Assistance in Environmental Law Drafting in SEE financed by the EC
Serbian Government Action Plan for Meeting the European Partnership Priorities (Extract)	2004	Government	
Answers to questionnaire	2005	Three individuals	Filled out and returned by Mr. Slavko Bogdanovic (YUGOLEX) Ms. Jelena Cvetkovic (MESP) Ms. Biljana Djurovic (MEPP)

Kosovo (territory under UN interim administration)

TITLE	YEAR	AUTHOR	REMARK
Selected laws and regulations			Source: www.unmikonline.org/regulations/index.htm
Paper on law drafting needs in Kosovo	2002	M. Baierl	Paper provided to Csaba Kiss
Bi-annual reports of CARDS project: Institutional Support for Environmental Management to the MESP, Kosovo	2004	Eptisa International (consulting company)	Draft report
Draft environmental strategy	2004	MESP/project	Source: www.esiweb.org/bridges/kosovo/1/4.pdf
State of the Environment Report	2003	MSEP	
Answers on questionnaire	2005	Four individuals	Filled out by four people employed by or affiliated with the MESP

General literature

TITLE	YEAR	AUTHOR	REMARK
Assessing Environmental Law Drafting Needs in SEE: Phase 1 Report	2003	Bandi, Kiss 2003 (REC)	
Report of fourth meeting of ELDNSO April 2004	2004	REC	Internal paper
Assistance in Environmental Law Drafting in SEE, yearly intermediate narrative report	2004	REC	
Project fiche REReP continuation and logframe CARDS 2002	2004	REC	Internal paper
From Regional Approach to the Stabilisation and Association Process		European Commission	http://europa.eu.int/comm/external_relations/see/actions/sap.htm
The Stabilisation and Association Process for SEE, First Annual Report, COM (2002)163 final	2002	European Commission	
The Stabilisation and Association Process for SEE, Third Annual Report, COM (2004) 202/2 final	2004	European Commission	
Commission Communication to the Council, SEC (89) 934 Final	1989	European Commission	
REACH in Brief	2004	European Commission	
EU environmental acquis communautaire (numerous directives)			

For further information please visit the project website at:
www.rec.org/REC/Programs/REREP/LawDrafting/Default.html.

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THE REGIONAL ENVIRONMENTAL CENTER FOR CENTRAL AND EASTERN EUROPE (REC)

is a non-partisan, non-advocacy, not-for-profit international organisation with a mission to assist in solving environmental problems in Central and Eastern Europe (CEE). The REC fulfils this mission by promoting cooperation among non-governmental organisations, governments, businesses and other environmental stakeholders, and by supporting the free exchange of information and public participation in environmental decision making.

The REC was established in 1990 by the United States, the European Commission and Hungary. Today, the REC is legally based on a charter signed by the governments of 28 countries and the European Commission, and on an international agreement with the government of Hungary. The REC has its head office in Szentendre, Hungary, and country offices and field offices in 16 beneficiary countries which are: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, the former Yugoslav Republic of Macedonia, Poland, Romania, Serbia and Montenegro, Slovakia, Slovenia and Turkey.

Recent donors are the European Commission and the governments of Austria, Belgium, Bosnia and Herzegovina, Canada, the Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Italy, Japan, Latvia, the Netherlands, Norway, Poland, Serbia and Montenegro, Slovenia, Sweden, Switzerland, the United Kingdom, and the United States, as well as other inter-governmental and private institutions.



Progress in Environmental Law Drafting in South Eastern Europe